



Montana Legislative History

Chapter: 348 Session L: 2015 Checklist of Bill History

Bill Number: 123 House / Senate

History and Final Status Sheet



Introduced Bill



Fiscal Note



Third Reading Bill



Final Version of Bill



House

Committee:
State Admin.
Appropriations

Hearing Date(s):

01-23-2015

02-12-2015

Committee Report:

Senate

Committee:
State Admin
Finance + Claims

Hearing Date(s):

3-16-2015

04-13-2015

Committee Report:

Conference Committee n/a

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: emg

Date: 11-16-2023

Notes:

Bill Draft Number: LC0448**Bill Type - Number:** HB 123**Short Title:** Generally revise public records laws**Primary Sponsor:** Donald W Jones (R) HD 46**Chapter Number:** 348**Bill Actions - Current Bill Progress:** Became Law**Bill Action Count:** 63

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/29/2015			
(H) Signed by Governor	04/29/2015			
(H) Transmitted to Governor	04/24/2015			
(S) Signed by President	04/24/2015			
(H) Signed by Speaker	04/23/2015			
(H) Returned from Enrolling	04/22/2015			
(C) Printed - Enrolled Version Available	04/22/2015			
(C) Clerical Corrections Made - New Version Available	04/22/2015			
(H) Sent to Enrolling	04/21/2015			
(H) 3rd Reading Passed as Amended by Senate	04/21/2015	86	14	
(H) Scheduled for 3rd Reading	04/21/2015			
(H) 2nd Reading Senate Amendments Concurred	04/20/2015	86	14	
(H) Scheduled for 2nd Reading	04/20/2015			
(S) Returned to House with Amendments	04/17/2015			
(S) 3rd Reading Concurred	04/17/2015	50	0	
(S) Scheduled for 3rd Reading	04/17/2015			
(S) 2nd Reading Concurred	04/16/2015	49	1	
(S) Scheduled for 2nd Reading	04/16/2015			
(S) Committee Report--Bill Concurred	04/14/2015			(S) Finance and Claims
(S) Committee Executive Action--Bill Concurred	04/14/2015	19	0	(S) Finance and Claims
(S) Hearing	04/13/2015			(S) Finance and Claims
(S) Rereferred to Committee	04/07/2015			(S) Finance and Claims
(C) Printed - New Version Available	04/01/2015			
(S) Committee Report--Bill Concurred as Amended	04/01/2015			(S) State Administration
(S) Committee Executive Action--Bill Concurred as Amended	04/01/2015	7	0	(S) State Administration
(S) Hearing	03/16/2015			(S) State Administration

(S) Referred to Committee	02/17/2015		(S) State Administration
(S) First Reading	02/17/2015		
(H) Transmitted to Senate	02/16/2015		
(H) 3rd Reading Passed	02/14/2015	90	9
(H) Scheduled for 3rd Reading	02/14/2015		
(H) Committee Report--Bill Passed	02/13/2015		(H) Appropriations
(H) Committee Executive Action--Bill Passed	02/12/2015	17	3 (H) Appropriations
(H) Hearing	02/12/2015		(H) Appropriations
(H) Rereferred to Committee	02/06/2015		(H) Appropriations
(H) 2nd Reading Passed	02/06/2015	91	9
(H) Scheduled for 2nd Reading	02/06/2015		
(C) Printed - New Version Available	02/04/2015		
(H) Committee Report--Bill Passed as Amended	02/04/2015		(H) State Administration
(H) Committee Executive Action--Bill Passed as Amended	02/03/2015	19	1 (H) State Administration
(H) Hearing	01/23/2015		(H) State Administration
(H) Sponsor Rebuttal to Fiscal Note Printed	01/22/2015		(H) State Administration
(H) Sponsor Rebuttal to Fiscal Note Signed	01/21/2015		
(H) Sponsor Rebuttal to Fiscal Note Received	01/21/2015		(H) State Administration
(H) Fiscal Note Printed	01/20/2015		(H) State Administration
(H) Sponsor Rebuttal to Fiscal Note Requested	01/19/2015		(H) State Administration
(H) Fiscal Note Received	01/16/2015		(H) State Administration
(H) First Reading	01/05/2015		
(H) Referred to Committee	12/23/2014		(H) State Administration
(H) Fiscal Note Requested	12/18/2014		
(C) Introduced Bill Text Available Electronically	12/15/2014		
(H) Introduced	12/15/2014		
(C) Pre-Introduction Letter Sent	12/15/2014		
(C) Pre-Introduction Letter Sent	12/08/2014		
(C) Fiscal Note Probable	12/05/2014		
(C) Draft in Assembly/Executive Director Review	12/05/2014		
(C) Draft in Final Drafter Review	12/05/2014		
(C) Bill Draft Text Available Electronically	11/26/2014		
(C) Draft in Input/Proofing	11/26/2014		
(C) Draft to Drafter - Edit Review [JLN]	11/26/2014		
(C) Draft in Legal Review	11/21/2014		
(C) Draft to Requester for Review	11/21/2014		

(C) Draft Request Received

09/19/2014

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Education and Local Government Interim Committee	
Drafter	Sankey Keip	Laura
By Request Of	Education and Local Government Interim Committee	
Primary Sponsor	Jones	Donald W

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Revenue, State	Revenue	Simple	REVS
Rule Making		Simple	RUL
State Government		Simple	STGO

Additional Bill Information

Fiscal Note Probable: Yes**Preintroduction Required:** Y**Session Law Ch. Number:** 348***DEADLINE*****Category:** Revenue Bills**Transmittal Date:** 03/31/2015**Return (with 2nd house amendments) Date:** 04/20/2015

Section Effective Dates

Section(s) **Effective Date** **Date Qualified**

All Sections 01-OCT-15

1 HOUSE BILL NO. 123

2 INTRODUCED BY D. JONES

3 BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND REORGANIZING MONTANA PUBLIC
6 RECORDS LAWS; UPDATING DEFINITIONS AND PROVIDING NEW DEFINITIONS; CLARIFYING ACCESS
7 TO PUBLIC INFORMATION; PROVIDING PRIVACY AND SECURITY EXCEPTIONS; PROVIDING A
8 PROCEDURE FOR PUBLIC INFORMATION REQUESTS; ALLOWING FEES FOR PUBLIC INFORMATION
9 REQUESTS; ALLOWING SPECIAL FEES FOR CERTAIN INFORMATION; EMPHASIZING THE DISPOSITION
10 OF PUBLIC RECORDS ACCORDING TO RETENTION SCHEDULES; UPDATING THE REQUIREMENTS FOR
11 ESSENTIAL RECORDS; CLARIFYING THE PROHIBITION ON DISSEMINATING DISTRIBUTION LISTS;
12 REVISING THE RECORDS MANAGEMENT DUTIES OF THE SECRETARY OF STATE; REQUIRING
13 COLLABORATION BETWEEN THE DEPARTMENT OF ADMINISTRATION AND THE SECRETARY OF STATE;
14 EXPANDING THE MEMBERSHIP AND DUTIES OF THE STATE RECORDS COMMITTEE; PROVIDING
15 POWERS AND DUTIES OF THE MONTANA HISTORICAL SOCIETY FOR MANAGING HISTORIC RECORDS
16 AND CONSTITUTIONAL OFFICER RECORDS; CLARIFYING AGENCY RESPONSIBILITIES FOR RECORDS
17 MANAGEMENT; REVISING MEMBERSHIP AND DUTIES OF THE LOCAL GOVERNMENT RECORDS
18 COMMITTEE; REDUCING THE NOTICE REQUIREMENTS BEFORE DESTRUCTION OF CERTAIN LOCAL
19 GOVERNMENT RECORDS; UPDATING PROTECTIONS OF PERSONAL INFORMATION; PROVIDING
20 RULEMAKING AUTHORITY; AMENDING SECTIONS 2-3-301, 2-15-2017, 5-11-203, 7-4-2614, 7-5-2132,
21 7-5-4124, 7-11-1007, 13-1-303, 13-21-228, 15-1-103, 15-1-521, 15-62-209, 17-8-403, 18-4-126, 19-2-403,
22 19-17-111, 22-1-211, 30-9A-522, 30-14-1603, 30-17-101, 32-11-107, 33-1-1403, 33-28-108, 46-23-110,
23 53-21-1108, 61-6-157, 61-11-510, AND 81-2-115, MCA; AND REPEALING SECTIONS 2-6-101, 2-6-102,
24 2-6-103, 2-6-104, 2-6-105, 2-6-106, 2-6-107, 2-6-108, 2-6-109, 2-6-110, 2-6-111, 2-6-112, 2-6-201, 2-6-202,
25 2-6-203, 2-6-204, 2-6-205, 2-6-206, 2-6-207, 2-6-208, 2-6-211, 2-6-212, 2-6-213, 2-6-214, 2-6-301, 2-6-302,
26 2-6-303, 2-6-304, 2-6-307, 2-6-401, 2-6-402, 2-6-403, 2-6-404, 2-6-405, 2-6-501, 2-6-502, 2-6-503, AND 2-6-504,
27 MCA."

28

29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

30

1 **NEW SECTION. Section 1. Purpose.** The purpose of this chapter is to ensure efficient and effective
2 management of public records and public information, in accordance with Article II, sections 8 through 10, of the
3 Montana constitution, for the state of Montana and its political subdivisions.

4
5 **NEW SECTION. Section 2. Definitions.** As used in this chapter, the following definitions apply:

6 (1) "Constitutional officer" means the governor, lieutenant governor, attorney general, secretary of state,
7 superintendent of public instruction, or auditor, who are the constitutionally designated and elected officials of the
8 executive branch of government.

9 (2) "Essential record" means a public record immediately necessary to:

10 (a) respond to an emergency or disaster;

11 (b) begin recovery or reestablishment of operations during and after an emergency or disaster;

12 (c) protect the health, safety, and property of Montana citizens; or

13 (d) protect the assets, obligations, rights, history, and resources of a public agency, its employees and
14 customers, and Montana citizens.

15 (3) "Executive branch agency" means a department, board, commission, office, bureau, or other public
16 authority of the executive branch of state government.

17 (4) "Historic record" means a public record found by the state archivist to have permanent administrative
18 or historic value to the state.

19 (5) "Local government" means a city, town, county, consolidated city-county, or school district or a
20 subdivision of one of these entities.

21 (6) "Local government records committee" means the committee provided for in [section 22].

22 (7) "Permanent record" means a public record designated for long-term or permanent retention.

23 (8) "Public agency" means any political subdivision, including a municipality, county, school district, and
24 any agency or department of the state of Montana.

25 (9) "Public information" means information, regardless of physical form or characteristics, relating to the
26 conduct of the public's business and prepared, owned, used, or retained by any public agency.

27 (10) "Public officer" means any person who has been elected or appointed as an officer of state or local
28 government.

29 (11) "Public record" means public information that is:

30 (a) fixed in any medium and is retrievable in usable form for future reference; and

(b) designated for retention by the state records committee, judicial branch, legislative branch, or local government records committee.

(12) "Records manager" means an individual designated by a public agency to be responsible for coordinating the efficient and effective management of the agency's public records and information.

(13) "State records committee" means the state records committee provided for in [section 15].

NEW SECTION. Section 3. Access to public information -- privacy and security exceptions. (1)

Every person has a right to examine and obtain a copy of any public information of this state, except for information that is constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure or as otherwise expressly prohibited by statute.

(2) A public officer may withhold from public scrutiny information relating to individual privacy or individual or public safety or the security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information may jeopardize the safety of facility personnel, the public, students in a public school, or inmates of a facility. Security features that may be protected under this section include but are not limited to architectural floor plans, blueprints, designs, drawings, building materials, alarm system plans, surveillance techniques, and facility staffing plans, including staff numbers and locations. A public officer may not withhold from public scrutiny any more information than is required to protect an individual privacy interest or safety or security interest.

(3) The provisions of this section do not apply to collections of the Montana historical society when restrictions on access have been imposed by collection creators or donors and the collections do not contain public information.

NEW SECTION. Section 4. Public information requests -- fees. (1) A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons.

(2) Upon receiving a request for public information, a public agency shall respond in a timely manner to the requesting person with an estimate of the time it will take to fulfill the request and any fees that may be charged pursuant to subsection (3).

(3) A public agency may charge a fee for fulfilling a public information request. The fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible. The

1 fee must be documented. The fee may include the time required to gather public information.

2
3 **NEW SECTION. Section 5. Special fees allowable for certain information.** (1) In addition to the fee
4 allowed under [section 4], the department of revenue may charge an additional fee as reimbursement for the cost
5 of developing and maintaining the property valuation and assessment system database from which the
6 information is requested. The fee must be charged to persons, federal agencies, state agencies, and other
7 entities requesting the database or any part of the database from any department property valuation and
8 assessment system. The fee may not be charged to the governor's office of budget and program planning, the
9 state tax appeal board, or any legislative body or its members or staff.

10 (2) The department of revenue may not charge a fee for information provided from any department
11 property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other
12 governmental functions or to an individual taxpayer concerning the taxpayer's property.

13 (3) All fees received by the department of revenue under [section 4] and this section must be deposited
14 in the property value improvement fund as provided in 15-1-521.

15 (4) In accordance with the fees allowed under [section 4], the Montana historical society may charge fees
16 as approved by its board of trustees for copies of materials contained in its collections, based on documentable
17 curatorial duties as set forth in 22-3-101.

18
19 **NEW SECTION. Section 6. Management of public records -- disposal and destruction.** (1) (a) Each
20 public officer is responsible for properly managing the public records within the public officer's possession or
21 control through an established records management plan that satisfies the requirements of this chapter.

22 (b) Executive branch agencies shall manage public records according to the provisions of [sections 13
23 through 21] and the rules and guidelines established by the secretary of state, the state records committee, and
24 the Montana historical society.

25 (c) Local governments shall manage public records according to the provisions of [sections 22 through
26 24] and the rules and guidelines established by the secretary of state, the local government records committee,
27 and the Montana historical society.

28 (d) Pursuant to 5-2-503 and 5-11-105, the legislative council shall administer the records management
29 plan for the legislative branch. The legislative branch may seek assistance from the secretary of state, the state
30 records committee, the local government records committee, and the Montana historical society regarding

development, implementation, and administration of the legislative records management plan.

(e) The judicial branch shall establish a records management plan. The judicial branch may seek assistance from the secretary of state, the state records committee, the local government records committee, and the Montana historical society regarding development, implementation, and administration of the judicial records management plan.

(2) When a public record has reached the end of its retention period, the public officer shall ensure the record is disposed of, destroyed, or transferred according to the provisions of this chapter.

NEW SECTION. Section 7. Preservation of public records -- possession of public records. (1) All public records are and remain the property of the state. The public records must be delivered by outgoing public officers and employees to their successors and must be preserved, stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of this chapter.

(2) If an outgoing public officer or employee refuses or fails to deliver to the current public officer or employee any public records that pertain to that public office, the current public officer or employee may file a complaint in the district court of the county where the outgoing public officer or employee resides, pursuant to the Montana Rules of Civil Procedure, to compel the outgoing public officer or employee to deliver any public records still in the outgoing public officer or employee's possession to the current public officer or employee.

NEW SECTION. Section 8. Written notice of denial -- civil action -- costs to plaintiff in certain actions to enforce constitutional rights. (1) A public agency that denies an information request to release information or records shall provide a written explanation for the denial.

(2) If a person who makes an information request receives a denial from a public agency and believes that the denial violates the provisions of this chapter, the person may file a complaint pursuant to the Montana Rules of Civil Procedure in district court.

(3) A plaintiff who prevails in an action brought in district court to enforce the plaintiff's rights under Article II, section 9, of the Montana constitution may be awarded costs and reasonable attorney fees.

NEW SECTION. Section 9. Certified copies of records -- historic records and constitutional officer records. (1) A person may request a certified copy of a public record from a public agency subject to the provisions of [section 3]. The public agency may charge a fee for the certified copy in accordance with [section

1 4].

2 (2) A person may request a certified copy of a historic record or a constitutional officer record from the
3 Montana historical society subject to the provisions of [section 3]. The Montana historical society may charge a
4 fee for the certified copy in accordance with [sections 4 and 5(4)].

5 (3) A certified copy created by the Montana historical society of a historic record or a constitutional officer
6 record has the same force in law as if made by the original public agency that created the record.

7
8 **NEW SECTION. Section 10. Protection and storage of essential records.** (1) To provide for the
9 continuity and preservation of civil government, each public officer shall designate certain public records as
10 essential records. The list must be continually maintained by the public officers to ensure its accuracy. Each
11 public officer shall collaborate with the appropriate continuity of government programs to ensure essential records
12 are identified and maintained.

13 (2) Each public officer shall ensure essential records are efficiently and effectively secured. Each public
14 officer shall look to the guidance provided by the state records committee or the local government records
15 committee in choosing appropriate methods to protect, store, back up, and recover essential records.

16
17 **NEW SECTION. Section 11. Prohibition on dissemination or use of distribution lists -- exceptions**
18 **-- penalties.** (1) Except as provided in subsections (3) through (9), to protect the privacy of those who deal with
19 state and local government:

20 (a) a public agency may not distribute or sell a distribution list without first securing the permission of
21 those on the list; and

22 (b) a list of persons prepared by a public agency may not be used as a distribution list without first
23 securing the permission of those on the list except by that agency.

24 (2) As used in this section, "distribution list" means any list of personal contact information collected by
25 a public agency and used to facilitate unsolicited contact with individuals on the distribution list.

26 (3) This section does not prevent an individual from compiling a distribution list by examination of records
27 that are otherwise open to public inspection.

28 (4) This section does not apply to the lists of:

29 (a) registered electors and the new voter lists provided for in 13-2-115;

30 (b) the names of employees governed by Title 39, chapter 31;

(c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127;

(d) persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37, chapters 1 through 4, 6 through 20, 22 through 29, 31, 34 through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through 69, 72, and 73; and Title 50, chapters 39, 72, 74, and 76; or

(e) persons certified as claims examiners under 39-71-320.

(5) This section does not prevent an agency from providing a list to persons providing prelicensing or continuing education courses subject to state law or subject to Title 33, chapter 17.

(6) This section does not apply to the right of access by Montana law enforcement agencies.

(7) This section does not apply to a corporate information list developed by the secretary of state containing the name, address, registered agent, officers, and directors of business, nonprofit, religious, professional, and close corporations authorized to do business in this state.

(8) This section does not apply to the use by the public employees' retirement board of a list of board-administered retirement system participants to send materials on behalf of a retiree organization formed for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the list is not released to the organization.

(9) This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.

(10) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.

NEW SECTION. Section 12. Concealment of public hazards prohibited -- concealment of information related to settlement or resolution of civil suits prohibited. (1) This section may be cited as the "Gus Barber Antisecrecy Act".

(2) As used in this section, "public hazard" means a device, instrument, or manufactured product or a condition of a device, instrument, or manufactured product that endangers public safety or health and has caused injury, as defined in 27-1-106.

(3) Except as otherwise provided in this section, a court may not enter a final order or judgment that has the purpose or effect of concealing a public hazard.

(4) Any portion of a final order or judgment entered or a written final settlement agreement entered into that has the purpose or effect of concealing a public hazard is contrary to public policy, is void, and may not be

1 enforced. This section does not prohibit the parties from keeping the monetary amount of a written final settlement
2 agreement confidential.

3 (5) A party to civil litigation may not request, as a condition to the production of discovery, that another
4 party stipulate to an order that would violate this section.

5 (6) This section does not apply to:

6 (a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected
7 pursuant to Title 30, chapter 14, part 4;

8 (b) other information that is confidential under state or federal law; or

9 (c) a health care provider, as defined in 27-6-103.

10 (7) Any affected person, including but not limited to a representative of the news media, has standing
11 to contest a final order or judgment or written final settlement agreement that violates this section by motion in
12 the court in which the case was filed.

13 (8) The court shall examine the disputed information or materials in camera. If the court finds that the
14 information or materials or portions of the information or materials consist of information concerning a public
15 hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow
16 disclosure of only that portion of the information or materials necessary or useful to the public concerning the
17 public hazard.

18 (9) This section does not apply to a protective order issued under Rule 26(c) of the Montana Rules of
19 Civil Procedure or to any materials produced under the order. Materials used as exhibits may be publicly
20 disclosed pursuant to the provisions of subsections (7) and (8).

21
22 **NEW SECTION. Section 13. Secretary of state -- powers and duties -- rulemaking authority.** (1)

23 To ensure the proper management and safeguarding of public records, the secretary of state shall:

24 (a) establish guidelines based on accepted industry standards for managing public records;

25 (b) upon request of another executive branch agency, review, analyze, and make recommendations
26 regarding executive branch agency filing systems and procedures;

27 (c) operate the state records center for the purpose of storing and servicing public records not retained
28 in office space;

29 (d) provide information and training materials for all phases of efficient and effective records
30 management;

(e) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies;

(f) consult with the department of administration pursuant to [section 14];

(g) adopt rules regarding management of public records;

(h) adopt rules to implement the objectives of the state records committee and local government records committee; and

(i) upon request, assist and advise in the establishment of records management procedures in the legislative and judicial branches of state government and provide services similar to those available to the executive branch.

(2) In addition to the requirements under subsection (1), the secretary of state may operate a central microfilm unit to microfilm, on a cost recovery basis, all records approved for filming by the office of origin and the secretary of state.

NEW SECTION. Section 14. Department of administration -- powers and duties. (1) To ensure compatibility with the information technology systems of state government and to promote adherence to records management principles and best practices, the department of administration, in consultation with the secretary of state, shall establish standards for technological compatibility for state agencies for records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods.

(2) The department of administration, in consultation with the secretary of state, shall approve all acquisitions of executive branch agency records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure compatibility with the standards developed under subsection (1).

(3) The department of administration is responsible for the management and operation of equipment, systems, facilities, and processes integral to the department's central computer center and statewide telecommunications system.

NEW SECTION. Section 15. State records committee -- composition and meetings. (1) There is a state records committee composed of:

(a) representatives of:

(i) the department of administration;

- 1 (ii) the legislative auditor;
2 (iii) the attorney general;
3 (iv) the secretary of state;
4 (v) the Montana historical society;
5 (vi) the clerk of the supreme court; and
6 (vii) the state chief information officer; and

7 (b) five members representing executive branch agencies designated pursuant to subsections (4) and
8 (5).

9 (2) The state records committee is administered by the secretary of state, and the secretary of state's
10 representative serves as the presiding officer for the committee.

11 (3) The committee members representing the agencies in subsection (1)(a) are designated by the heads
12 of the respective agencies, and their appointments must be submitted in writing to the secretary of state. These
13 committee members serve at the pleasure of the heads of their respective agencies.

14 (4) To implement subsection (1)(b), the committee members in subsection (1)(a) shall develop a rotation
15 by which each of the executive branch agencies is designated to select a representative to serve a 2-year term
16 as a committee member. The secretary of state shall adopt the rotation by administrative rule.

17 (5) The committee shall establish guidelines for the heads of executive branch agencies in appointing
18 representatives to ensure the executive branch representatives provide a balance of perspectives from records
19 management, information technology, and legal professionals.

20 (6) The committee shall meet at least quarterly.

21 (7) Committee members shall serve without additional salary but are entitled to reimbursement for travel
22 expenses incurred while engaged in committee activities as provided for in 2-18-501 through 2-18-503. Expenses
23 must be paid from the appropriations made for operation of their respective agencies.

24
25 **NEW SECTION. Section 16. State records committee duties and responsibilities.** The purpose of
26 the state records committee is to act as a resource for executive branch agencies and others by staying at the
27 forefront of records management best practices. The committee shall:

- 28 (1) gather and disseminate information on all phases of records management;
29 (2) advise the secretary of state in developing records management standards, guidelines, and training
30 materials;

- 1 (3) develop guidelines to help agencies identify, maintain, and secure their essential records;
- 2 (4) serve as a forum for continuing collaboration among records management, information technology,
- 3 and legal professionals throughout state agencies;
- 4 (5) make recommendations to the secretary of state for rulemaking regarding public records
- 5 management;
- 6 (6) regularly review existing public records laws and make recommendations to the secretary of state
- 7 regarding pursuing statutory change; and
- 8 (7) report biennially to the governor and, as provided in 5-11-210, the legislature on the activities of the
- 9 committee, improvements in records management in state government, aspects of records management requiring
- 10 further improvement, and committee recommendations and plans for further improvement.
- 11

12 **NEW SECTION. Section 17. Retention and disposition subcommittee -- approval required for**

13 **record disposal.** (1) There is a subcommittee of the state records committee to be known as the retention and

14 disposition subcommittee. The subcommittee is composed of the members of the state records committee who

15 represent the following offices:

- 16 (a) the department of administration;
- 17 (b) the legislative auditor;
- 18 (c) the attorney general;
- 19 (d) the secretary of state; and
- 20 (e) the Montana historical society.

21 (2) The subcommittee shall approve, modify, or disapprove the recommendations on retention schedules

22 of all public records.

23 (3) Except as provided in subsection (4), no public record may be disposed of or destroyed without the

24 unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction

25 must be submitted to the subcommittee by the agency concerned.

26 (4) The subcommittee may by unanimous approval establish categories of records for which no disposal

27 request is required if those records are retained for the designated retention period.

28

29 **NEW SECTION. Section 18. Historic records -- Montana historical society -- powers and duties.**

30 To ensure the proper management and safeguarding of historic records, the Montana historical society shall:

1 (1) establish and operate the state archives as authorized by appropriation for the purpose of storing,
2 preserving, and providing access to historic records transferred to the custody of the state archives;

3 (2) in cooperation with the secretary of state, the local government records committee, and the state
4 records committee, establish guidelines to inventory, catalog, retain, transfer, and provide access to all historic
5 records;

6 (3) maintain and enforce restrictions on access to historic records in the custody of the state archives
7 in accordance with the provisions of this part; and

8 (4) in accordance with the guidelines established pursuant to subsection (2), remove and destroy
9 duplicate records and records considered to have no historical value.

10
11 **NEW SECTION. Section 19. Constitutional officer records -- Montana historical society.** (1) All
12 constitutional officer records are the property of the state. The records must be delivered by outgoing
13 constitutional officers to their successors, who shall preserve, store, transfer, destroy, or dispose of and otherwise
14 manage them in accordance with the provisions of this section.

15 (2) Within 2 years after taking office as a constitutional officer, the current constitutional officer shall
16 consult with staff members of the Montana historical society and transfer to the Montana historical society all of
17 the constitutional officer records of the prior officeholder that are not necessary to the current operation of that
18 office and are considered worthy of preservation.

19 (3) An outgoing constitutional officer, in consultation with staff members of the Montana historical society,
20 shall review constitutional officer records and isolate any items of a purely personal nature. The personal papers
21 are not subject to this section, but they may be deposited along with the constitutional officer records at the
22 Montana historical society at the constitutional officer's discretion.

23 (4) An outgoing constitutional officer, in consultation with staff members of the Montana historical society,
24 may restrict access to certain segments of that officer's records. Restrictions may not be longer than the lifetime
25 of the depositing official. Restricted access may be imposed only to protect the confidentiality of personal
26 information contained in the records. Restricted access may not be imposed unless the demand of individual
27 privacy clearly exceeds the merits of public disclosure.

28 (5) Any question concerning the transfer or other status of constitutional officer records arising between
29 the state archives and a constitutional officer's office must be decided by a four-fifths vote of the members of the
30 retention and disposition subcommittee provided for in [section 17].

1

2 **NEW SECTION. Section 20. Permanent records -- agency responsibilities -- state records center.**

3 (1) All permanent records no longer required in the current operation of the office where they are made or kept
4 and all records of each agency or activity of the executive branch of state government that has been abolished
5 or discontinued must be maintained by the agency or transferred to the state records center in accordance with
6 approved records retention schedules.

7 (2) When records are transferred to the state records center, the transferring agency does not lose its
8 rights of control and access. The state records center is merely a custodian of the agency records, and access
9 is only by agency approval. Agency records for which the state records center acts as custodian may not be
10 subpoenaed from the state records center but must be subpoenaed from the agency to which the records belong.
11 The state records center may charge fees to cover the cost of records storage and servicing.

12 (3) Prior to transferring a permanent record to the state records center, the transferring agency shall
13 consult with the state archivist to determine whether the record is also a historic record. If the record is found to
14 be a historic record, it must be transferred to the Montana historical society in accordance with the provisions of
15 [section 18].

16

17 **NEW SECTION. Section 21. Agency records management duties.** Each department head shall
18 administer the executive branch agency's records management function and shall:

19 (1) coordinate all aspects of the agency records management function in accordance with procedures
20 prescribed by the secretary of state and the state records committee;

21 (2) analyze records inventory data and examine and compare all inventories within the agency to
22 minimize duplication of records;

23 (3) review and approve records disposal requests for submission to the retention and disposition
24 subcommittee;

25 (4) review established records retention schedules to ensure they are complete and current and make
26 recommendations to the secretary of state and the state records committee regarding minimal retentions for all
27 copies of public records within the agency;

28 (5) incorporate records management requirements into the agency information technology plan provided
29 for in 2-17-523;

30 (6) ensure that all agency employees receive appropriate and ongoing records management training;

1 and

2 (7) after considering guidance from the state records committee regarding records manager
3 qualifications, officially designate a qualified agency records manager to manage the functions provided for in
4 this section.

5
6 **NEW SECTION. Section 22. Local government records committee -- composition and meetings.**

7 (1) There is a local government records committee.

8 (2) The committee consists of the following eight members:

9 (a) the state archivist;

10 (b) the state records manager;

11 (c) a representative of the department of administration;

12 (d) two local government records managers appointed by the director of the Montana historical society;

13 (e) two local government records managers appointed by the secretary of state; and

14 (f) a person representing the Montana state genealogical society, appointed by the secretary of state,
15 who shall serve as a volunteer.

16 (3) Committee members subject to appointment shall hold office for a period of 2 years beginning
17 January 1 of the year following their appointment.

18 (4) Vacancies must be filled in the same manner they were filled originally.

19 (5) The committee shall elect a presiding officer and a vice presiding officer.

20 (6) The committee shall meet at least twice a year upon the call of the secretary of state or the presiding
21 officer.

22 (7) Except for the member appointed in subsection (2)(f), members of the committee not serving as part
23 of their compensated government employment must be compensated in accordance with 2-18-501 through
24 2-18-503 for each day in committee attendance. Members who serve as part of their compensated government
25 employment may not receive additional compensation, but the employing governmental entity shall furnish, in
26 accordance with the prevailing per diem rates, a reasonable allowance for travel and other expenses incurred
27 in attending committee meetings.

28
29 **NEW SECTION. Section 23. Local government records committee -- duties and responsibilities.**

30 The local government records committee shall:

1 (1) approve, modify, or disapprove proposals for local government records retention and disposition
2 schedules;

3 (2) appoint a subcommittee, known as the local government records destruction subcommittee, to handle
4 requests for disposal of records. The subcommittee consists of the state archivist, one of the local government
5 records managers, and the representative of the department of administration. Unless specifically authorized by
6 statute or by the retention and disposition schedule, a local government public record may not be destroyed or
7 otherwise disposed of without the unanimous approval of the subcommittee. When approval is required, a request
8 for the disposal or destruction of local government records must be submitted to the subcommittee by the entity
9 concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must
10 be referred to the local government records committee for approval. When approval is obtained from the
11 subcommittee or from the local government records committee for the disposal of a record, the local government
12 records committee shall consider the inclusion of a new category of record for which a disposal request is not
13 required and shall update the schedule as necessary.

14 (3) establish a retention and disposition schedule for categories of records for which a disposal request
15 is not required. The local government records committee shall publish the retention and disposition schedules.
16 Updates to those schedules, if any, must be published at least annually.

17 (4) develop guidance for local governments to identify, maintain, and secure their essential records;

18 (5) respond to requests for technical advice on matters relating to local government records; and

19 (6) provide leadership and coordination in matters affecting the records of multiple local governments.
20

21 **NEW SECTION. Section 24. Disposal of local government public records prohibited prior to**
22 **offering -- central registry -- notification.** (1) A local government public record more than 10 years old may not
23 be destroyed unless it is first offered to the Montana historical society, the state archives, Montana public and
24 private universities and colleges, local historical museums, local historical societies, Montana genealogical
25 groups, and the general public.

26 (2) The availability of a public record to be destroyed must be noticed to the entities listed in subsection
27 (1) at least 60 days prior to disposal.

28 (3) (a) Claimed records must be given to entities in the order of priority listed in subsection (1).

29 (b) All expenses for the removal of claimed records must be paid by the entity claiming the records.

30 (c) The local government records committee shall establish procedures by which public records must

1 be offered and claimed pursuant to this section.

2 (d) The local government records committee shall develop and maintain a central registry of the entities
3 identified in subsection (1) who are interested in receiving notice of the potential destruction of public records
4 pursuant to this section. The registry must be constructed to allow a local government entity to notify the local
5 government records committee when the entity intends to destroy documents covered under this section and
6 allows the local government records committee to subsequently notify the entities in the registry. A local
7 government entity's notice to the local government records committee pursuant to this subsection (3)(d) and the
8 records committee's notice to the entities listed on the registry fulfills the notification requirements of this section.

9
10 **NEW SECTION. Section 25. Definitions.** As used in [sections 25 through 27], the following definitions
11 apply:

12 (1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of
13 computerized data that:

14 (a) materially compromises the security, confidentiality, or integrity of the personal information maintained
15 by a state agency or by a third party on behalf of a state agency; and

16 (b) causes or is reasonably believed to cause loss or injury to a person.

17 (2) "Individual" means a human being.

18 (3) "Person" means an individual, a partnership, a corporation, an association, or a public organization
19 of any character.

20 (4) (a) "Personal information" means a first name or first initial and last name in combination with any
21 one or more of the following data elements when the name and data elements are not encrypted:

22 (i) a social security number or tax identification number;

23 (ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal
24 identification number or enrollment number, or a similar identification number issued by any state, the District of
25 Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; or

26 (iii) an account number or credit or debit card number in combination with any required security code,
27 access code, or password that would permit access to a person's financial account.

28 (b) The term does not include publicly available information from federal, state, local, or tribal government
29 records.

30 (5) "Redaction" means the alteration of personal information contained within data to make all or a

significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.

(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.

(b) The term does not include an entity of the judicial branch.

(7) "Third party" means:

(a) a person with a contractual obligation to perform a function for a state agency; or

(b) a state agency with a contractual or other obligation to perform a function for another state agency.

NEW SECTION. Section 26. Protection of personal information -- compliance -- extensions. (1)

Each state agency that maintains the personal information of an individual shall develop procedures to protect the personal information while enabling the state agency to use the personal information as necessary for the performance of its duties under federal or state law.

(2) The procedures must include measures to:

(a) eliminate the unnecessary use of personal information;

(b) identify the person or state agency authorized to have access to personal information;

(c) restrict access to personal information by unauthorized persons or state agencies;

(d) identify circumstances in which redaction of personal information is appropriate;

(e) dispose of documents that contain personal information in a manner consistent with other record retention requirements applicable to the state agency;

(f) eliminate the unnecessary storage of personal information on portable devices; and

(g) protect data containing personal information if that data is on a portable device.

(3) Except as provided in subsection (4), each state agency that is created after [the effective date of this act] shall complete the requirements of this section within 1 year of its creation.

(4) The chief information officer provided for in 2-17-511 may grant an extension to any state agency subject to the provisions of the Montana Information Technology Act provided for in Title 2, chapter 17, part 5. The chief information officer shall inform the information technology board, the office of budget and program planning, and the legislative finance committee of all extensions that are granted and of the rationale for granting

1 the extensions. The chief information officer shall maintain written documentation that identifies the terms and
2 conditions of each extension and the rationale for the extension.

3
4 **NEW SECTION. Section 27. Notification of breach of security of data system.** (1) (a) Upon
5 discovery or notification of a breach of the security of a data system, a state agency that maintains computerized
6 data containing personal information in the data system shall make reasonable efforts to notify any person whose
7 unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized
8 person.

9 (b) The notification must be made without unreasonable delay, consistent with the legitimate needs of
10 law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the
11 breach and to restore the reasonable integrity of the data system.

12 (2) (a) A third party that receives personal information from a state agency and maintains that information
13 in a computerized data system to perform a state agency function shall:

14 (i) notify the state agency immediately following discovery of the breach if the personal information is
15 reasonably believed to have been acquired by an unauthorized person; and

16 (ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose
17 unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as
18 part of the breach. This notification must be provided in the same manner as the notification required in
19 subsection (1).

20 (b) A state agency notified of a breach by a third party has no independent duty to provide notification
21 of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a)
22 but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third
23 party its reasonable costs for providing the notice.

24 (3) The notification required by this section may be delayed if a law enforcement agency determines that
25 the notification will impede a criminal investigation and requests a delay of notification. The notification required
26 by this section must be made after the law enforcement agency determines that the notification will not
27 compromise the investigation.

28 (4) All state agencies and third parties to whom personal information is disclosed by a state agency shall
29 develop and maintain:

30 (a) an information security policy designed to safeguard personal information; and

(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).

NEW SECTION. Section 28. Custody and reproduction of certain records by secretary of state.

(1) The secretary of state is charged with the custody of:

(a) the enrolled copy of the constitution;

(b) all the acts and resolutions passed by the legislature;

(c) the journals of the legislature;

(d) the great seal;

(e) all books, records, parchments, maps, and papers kept or deposited in the secretary of state's office pursuant to law.

(2) All records included in subsection (1) may be kept and reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in [section 15].

(3) The state records committee may approve the disposal of original records once those records are reproduced as provided for in subsection (2) unless disposal takes the form of transfer of records. Reproduction is not necessary for transferred records. The reproduction or certified copy of a record may be used in place of the original for all purposes, including as evidence in any court or proceeding, and has the same force and effect as the original record.

(4) The secretary of state shall prepare enlarged typed or photographic copies of the records whenever their production is required by law.

(5) At least two copies must be made of all records reproduced as provided for in subsection (2). The secretary of state shall place one copy in a fireproof storage place and shall retain the other copy in the office with suitable equipment for displaying a record by projection to not less than its original size and for preparing copies of the record for persons entitled to copies.

(6) All duplicates of records must be identified and indexed.

NEW SECTION. Section 29. Filing and copying fees -- exceptions. (1) The secretary of state shall charge and collect fees for filing and copying services.

(2) A member of the legislature or a state or county officer may not be charged for a search relative to matters pertaining to the duties of the member's or officer's office or for a certified copy of any law or resolution

1 passed by the legislature relative to the member's or officer's official duties.

2 (3) The secretary of state may not charge a fee, other than as authorized in [section 4], for providing
3 public information.

4 (4) Fees must be collected in advance and are not refundable.

5 (5) Fees authorized by this section must be set and deposited in accordance with 2-15-405.

6
7 **Section 30.** Section 2-3-301, MCA, is amended to read:

8 **"2-3-301. Agency to accept public comment electronically -- dissemination of electronic mail**
9 **address and documents required -- ~~prohibiting fees~~ prohibited.** (1) An agency that accepts public comment
10 pursuant to a statute, administrative rule, or policy, including an agency adopting rules pursuant to the Montana
11 Administrative Procedure Act or an agency to which 2-3-111 applies, shall provide for the receipt of public
12 comment by the agency by use of an electronic mail system.

13 (2) As part of the agency action required by subsection (1), an agency shall disseminate by appropriate
14 media its electronic mail address to which public comment may be made, including dissemination in:

15 (a) rulemaking notices published pursuant to the Montana Administrative Procedure Act;
16 (b) the telephone directory of state agencies published by the department of administration;
17 (c) any notice of agency existence, purpose, and operations published on the internet ~~world-wide web,~~
18 ~~popularly known as a "website", used by the agency;~~ or

19 (d) any combination of the methods of dissemination provided in subsections (2)(a) through (2)(c).

20 (3) An agency shall, at the request of another agency or person and subject to ~~2-6-102~~ [section 3],
21 disseminate the electronic documents to that agency or person by electronic mail in place of surface mail.
22 Notification of the availability of an electronic notice of proposed rulemaking may be sent to an interested person
23 as provided in 2-4-302(2)(a)(ii). An agency may not charge a fee for providing documents by electronic mail in
24 accordance with this subsection.

25 (4) An agency that receives electronic mail pursuant to subsection (1) shall retain the electronic mail as
26 either an electronic or a paper copy to the same extent that other comments are retained.

27 (5) As used in this section, "agency" means a department, division, bureau, office, board, commission,
28 authority, or other agency of the executive branch of state government."
29

30 **Section 31.** Section 2-15-2017, MCA, is amended to read:

1 **"2-15-2017. Domestic violence fatality review commission -- confidentiality of meetings and**
2 **records -- criminal liability for unauthorized disclosure -- report to legislature.** (1) There is a domestic
3 violence fatality review commission in the department of justice.

4 (2) The commission shall:

5 (a) examine the trends and patterns of domestic violence-related fatalities in Montana;

6 (b) educate the public, service providers, and policymakers about domestic violence fatalities and
7 strategies for intervention and prevention; and

8 (c) recommend policies, practices, and services that may encourage collaboration and reduce fatalities
9 due to domestic violence.

10 (3) The members of the commission, not to exceed 18, are appointed by the attorney general from
11 among the following disciplines:

12 (a) representatives from state departments that are involved in issues of domestic abuse;

13 (b) representatives of private organizations that are involved in issues of domestic abuse;

14 (c) medical and mental health care providers who are involved in issues of domestic abuse;

15 (d) representatives from law enforcement, the judiciary, and the state bar of Montana;

16 (e) representatives of Montana Indian tribes;

17 (f) other concerned citizens; and

18 (g) a member of the legislature who serves on either the house judiciary committee or the senate
19 judiciary committee.

20 (4) The members shall serve without compensation by the commission but are entitled to be reimbursed
21 for travel expenses as provided for in 2-18-501 through 2-18-503, and members who are full-time salaried officers
22 or employees of this state or of any political subdivision of this state are entitled to their regular compensation.
23 The provisions of 2-15-122 do not apply to the commission.

24 (5) The commission shall review closed domestic homicide cases selected by the attorney general to
25 provide the commission with the best opportunity to fulfill its duties under this section.

26 (6) Upon written request from the commission, a person who possesses information or records that are
27 necessary and relevant to a domestic violence fatality review shall, as soon as practicable, provide the
28 commission with the information and records. A person who provides information or records upon request of the
29 commission is not criminally or civilly liable for providing information or records in compliance with this section.

30 (7) The meetings and proceedings of the commission are confidential and are exempt from the

provisions of Title 2, chapter 3.

(8) The records of the commission are confidential and are ~~exempt from the provisions of Title 2, chapter 6~~ protected from disclosure under [section 3]. The records are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action unless the records are reviewed by a district court judge and ordered to be provided to the person seeking access. The commission shall disclose conclusions and recommendations upon request but may not disclose information, records, or data that are otherwise confidential. The commission may not use the information, records, or data for purposes other than those designated by subsections (2)(a) and (2)(c).

(9) The commission may require any person appearing before it to sign a confidentiality agreement created by the commission in order to maintain the confidentiality of the proceedings. In addition, the commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(10) A member of the commission who knowingly uses information obtained pursuant to subsection (6) for a purpose not authorized in subsection (2) or who discloses information in violation of subsection (8) is subject to a civil penalty of not more than \$500.

(11) The commission shall report its findings and recommendations in writing to the law and justice interim committee, the attorney general, the governor, and the chief justice of the Montana supreme court prior to each regular legislative session. The report must be made available to the public through the office of the attorney general. The commission may issue data or other information periodically, in addition to the biennial report."

Section 32. Section 5-11-203, MCA, is amended to read:

"5-11-203. Distribution of session laws -- ~~inspection~~ examination of journals. (1) Immediately after the session laws are published, the legislative services division shall distribute them.

(2) The legislative services division shall make the house and senate journals available for ~~inspection~~ examination or copying by the public as provided in ~~Title 2, chapter 6, part 1 [sections 1 through 12]~~. The legislative services division may publish the journals in an electronic format.

(3) The following entities may receive the number of copies of session laws listed at no cost:

(a) to the library of congress, eight copies;

(b) to the state library, two copies;

1 (c) to the state historical library, two copies;

2 (d) to the state law librarian, four copies for the use of the library and additional copies as may be
3 required for exchange with libraries and institutions maintained by other states and territories and public libraries;

4 (e) to the library of each custodial institution, one copy;

5 (f) to each Montana member of congress, each United States district judge in Montana, each of the
6 judges of the state supreme and district courts, and each of the state officers as defined in 2-2-102, one copy;

7 (g) to any agency, board, commission, or office of the state, other than a state officer, and to any other
8 subdivision of the state upon request and approval by the legislative council, one copy;

9 (h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house of
10 representatives from the session at which the laws were adopted, one copy;

11 (i) to each of the community college districts of the state, as defined in 20-15-101, and each unit of the
12 Montana university system, one copy;

13 (j) to each county clerk, one copy for the use of the county; and

14 (k) to each county attorney and to each clerk of a district court, one copy."

15
16 **Section 33.** Section 7-4-2614, MCA, is amended to read:

17 **"7-4-2614. Records of certificates of discharge from military service.** (1) It is the duty of the county
18 clerk of any county of this state to record, without charge and in a book kept for that purpose, the certificate of
19 discharge of an honorably discharged person who served with the United States forces upon that person's
20 request. It is not the clerk's duty to file the certificate.

21 (2) A record of a military discharge certificate is confidential and ~~exempt from the provisions of Title 2,~~
22 ~~chapter 6~~ is protected from disclosure under [section 3]. A military discharge certificate may be disclosed only
23 to:

24 (a) the service member for whom the certificate was recorded;

25 (b) if the service member is deceased, the next of kin of the service member or a mortuary, as defined
26 in 10-2-111, for the purposes of securing the burial benefits to which the service member is entitled;

27 (c) a veterans' service officer or a veterans' service organization, as defined in 10-2-111;

28 (d) the veterans' affairs division of the Montana department of military affairs; or

29 (e) any person with written authorization from the service member or from the next of kin of the service
30 member, if the service member is deceased.

(3) If an original discharge certificate was inadvertently filed and the county clerk still retains the certificate in its original form, upon the written request of the service member or of the service member's next of kin if the service member is deceased, the clerk shall return the filed certificate to the service member or to the service member's next of kin if the service member is deceased.

(4) For purposes of this section:

(a) "file" means to store in original form; and

(b) "record" means to make and keep a copy from which a certified original copy can be reproduced."

Section 34. Section 7-5-2132, MCA, is amended to read:

"7-5-2132. Destruction of county records. Upon the order of the board of county commissioners and with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~ [section 23], a county officer may destroy records that have met the retention period, as contained in the local government records retention and disposition schedules, and that are no longer needed by the office."

Section 35. Section 7-5-4124, MCA, is amended to read:

"7-5-4124. Destruction of municipal records. Upon the order of the city or town council or commission and with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~ [section 23], a city or town officer may destroy records that have met the retention period, as contained in the local government records retention and disposition schedules, and that are no longer needed by the office."

Section 36. Section 7-11-1007, MCA, is amended to read:

"7-11-1007. Public hearing -- resolution of intention to create special district. (1) The governing body shall hold at least one public hearing concerning the creation of a proposed special district prior to the passage of a resolution of intention to create the special district. A resolution of intention to create a special district may be based upon a decision of the governing body as provided in 7-11-1003(1)(a) or upon a petition that contains the required number of signatures as provided in 7-11-1003(1)(b).

(2) The resolution must designate:

(a) the proposed name of the special district;

(b) the necessity for the proposed special district;

(c) a general description of the territory or lands to be included within the proposed special district, giving

1 the boundaries of the proposed special district;

2 (d) the general character of any proposed improvements and the proposed location for the proposed
3 program or improvements;

4 (e) the estimated cost and method of financing the proposed program or improvements;

5 (f) any requirements specifically applicable to the type of special district;

6 (g) whether the proposed special district would be administered by the governing body or an appointed
7 or elected board; and

8 (h) the duration of the proposed special district.

9 (3) (a) The governing body shall publish notice of passage of the resolution of intention to create a
10 special district as provided in 7-1-2121 and 7-1-2122 or 7-1-4127 and 7-1-4129, as applicable. The notice must
11 contain a notice of a hearing and the time and place where the hearing will be held.

12 (b) At the same time that notice is published pursuant to subsection (3)(a), the governing body shall
13 provide a list of those properties subject to potential assessment, fees, or taxation under the creation of the
14 proposed special district. The list may not be distributed or sold for use as a ~~mailing~~ distribution list in accordance
15 with ~~2-6-109~~ [section 11].

16 (c) A copy of the notice described in subsection (3)(a) must be mailed to each owner or purchaser under
17 contract for deed of the property included on the list referred to in subsection (3)(b) as shown by the current
18 property tax record maintained by the department of revenue for the county."

19
20 **Section 37.** Section 13-1-303, MCA, is amended to read:

21 **"13-1-303. Disposition of ballots and other election materials.** (1) (a) Except for a federal election
22 and as provided in 13-15-301(2), the voted ballots, detached stubs, unvoted ballots, and unused ballots from an
23 election must be kept in the unopened packages received from the election judges for a period of 12 months. The
24 packages may be opened only when an order for opening is given by the proper official either for a recount
25 procedure or to process provisional ballots.

26 (b) The voted ballots, detached stubs, unvoted ballots, and unused ballots from a federal election must
27 be retained in the unopened packages received from the election judges for a period of 22 months. The packages
28 may be opened only as provided in subsection (1)(a) or for a postelection random-sample audit of vote-counting
29 machines.

30 (c) An election administrator may dispose of the ballots as provided in subsection (2) if after the time

periods provided for in this subsection (1), there is no:

(i) contest begun;

(ii) recount pending; or

(iii) appeal of a decision relating to a contest, a recount, or a postelection random-sample audit.

(2) Each election administrator shall prepare a plan for retention and destruction of election records in the county according to the retention schedules established by the local government records committee provided for in ~~2-6-402~~ [section 22]."

Section 38. Section 13-21-228, MCA, is amended to read:

"13-21-228. Use of voter's e-mail address. (1) A local election official shall request an e-mail address from each covered voter who registers to vote after January 1, 2014.

(2) An e-mail address provided by a covered voter may not be made available to the public or any individual or organization other than a state or local election official and is exempt from disclosure under ~~Title 2, chapter 6~~ [section 3].

(3) The address may be used only for official communication with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission and verifying the voter's mailing address and physical location."

Section 39. Section 15-1-103, MCA, is amended to read:

"15-1-103. Disposal of tax records -- procedure. (1) Notwithstanding any other provisions of law, the department may dispose of tax records more than 3 years old if the records do not have any further value or as provided in subsection (3).

(2) Authorization for disposal of tax records must be made by the director of the department or authorized employees of the department. A copy of the authorization and authenticated list of the records must be maintained by the department.

(3) The department may dispose of its original tax records after those records have been reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in ~~2-6-208~~ [section 15]. The department shall maintain the reproduction as the public record. The reproduction or certified copy of the reproduction may be used in place of the department's original in any court or proceeding and has the same force and effect as the department's original record."

1

2 **Section 40.** Section 15-1-521, MCA, is amended to read:

3 **"15-1-521. Property valuation improvement fund.** There is an account in the state special revenue
4 fund to be used by the department for increasing the efficiency of the property appraisal, assessment, and
5 taxation process through improvements in technology and administration. The department shall deposit fees
6 collected pursuant to ~~2-6-110(3)~~ [section 5] in the account."

7

8 **Section 41.** Section 15-62-209, MCA, is amended to read:

9 **"15-62-209. Access to records.** Information that identifies the contributor, account owner, or designated
10 beneficiary of a family education savings account is exempt from the provisions of ~~2-6-102 and 2-6-104~~ [section
11 3] and any other provision of law permitting the public ~~inspection~~ examination or copying of documents. The
12 provisions of this section may not prevent the release of information about a specific designated beneficiary to
13 a higher education institution at which the designated beneficiary is enrolled or to which the designated
14 beneficiary has applied for admission."

15

16 **Section 42.** Section 17-8-403, MCA, is amended to read:

17 **"17-8-403. False claims -- procedures -- penalties.** (1) Except as provided in subsection (2), a person
18 is liable to a governmental entity for a civil penalty of not less than \$5,500 and not more than \$11,000 for each
19 act specified in this section, plus three times the amount of damages that a governmental entity sustains, along
20 with expenses, costs, and attorney fees, if the person:

21 (a) knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;

22 (b) knowingly makes, uses, or causes to be made or used a false record or statement material to a false
23 or fraudulent claim;

24 (c) conspires to commit a violation of this subsection (1);

25 (d) has possession, custody, or control of public property or money used or to be used by the
26 governmental entity and knowingly delivers or causes to be delivered less than all of the property or money;

27 (e) is authorized to make or deliver a document certifying receipt of property used or to be used by the
28 governmental entity and, with the intent to defraud the governmental entity or to willfully conceal the property,
29 makes or delivers a receipt without completely knowing that the information on the receipt is true;

30 (f) knowingly buys or receives as a pledge of an obligation or debt public property of the governmental

entity from any person who may not lawfully sell or pledge the property;

(g) knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to a governmental entity or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to a governmental entity; or

(h) as a beneficiary of an inadvertent submission of a false or fraudulent claim to the governmental entity, subsequently discovers the falsity of the claim or that the claim is fraudulent and fails to disclose the false or fraudulent claim to the governmental entity within a reasonable time after discovery of the false or fraudulent claim.

(2) In a civil action brought under 17-8-405 or 17-8-406, a court shall assess a civil penalty of not less than \$5,500 and not more than \$11,000 for each act specified in this section, plus not less than two times and not more than three times the amount of damages that a governmental entity sustains if the court finds all of the following:

(a) The person committing the act furnished the government attorney with all information known to that person about the act within 30 days after the date on which the person first obtained the information.

(b) The person fully cooperated with any investigation of the act by the government attorney.

(c) At the time that the person furnished the government attorney with information about the act, a criminal prosecution, civil action, or administrative action had not been commenced with respect to the act and the person did not have actual knowledge of the existence of an investigation into the act.

(3) A person who violates the provisions of this section is also liable to the governmental entity for the expenses, costs, and attorney fees of the civil action brought to recover the penalty or damages.

(4) Liability under this section is joint and several for any act committed by two or more persons.

(5) This section does not apply to claims, records, or statements made in relation to claims filed with the state compensation insurance fund under Title 39, chapter 71, or to claims, records, payments, or statements made under the tax laws contained in Title 15 or 16 or made to the department of natural resources and conservation under Title 77.

(6) (a) A court shall dismiss an action or claim brought under 17-8-406, unless opposed by the governmental entity or unless the action is brought by the government attorney or the person who is the original source of the information, if substantially the same allegations or transactions alleged in the action or claim were publicly disclosed in:

(i) a criminal, civil, or administrative hearing in which the governmental entity or an agent of the

1 governmental entity is a party;
2 (ii) a state legislative, state auditor, or other governmental entity report, hearing, audit, or investigation;
3 or
4 (iii) the news media.
5 (b) The production of a record pursuant to Article II, section 9, of the Montana constitution or ~~Title 2,~~
6 ~~chapter 6, [section 3]~~ is not a public disclosure for purposes of this section.
7 (c) For purposes of this subsection (6), "original source" means an individual who:
8 (i) prior to a public disclosure, voluntarily disclosed to the governmental entity the information on which
9 the allegations or transactions in a claim are based; or
10 (ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations and
11 transactions and voluntarily provided the information to the governmental entity before filing an action.
12 (7) A person may not file a complaint or civil action brought under 17-8-406 against the state or an officer
13 or employee of the state arising from conduct by the officer or employee within the scope of the officer's or
14 employee's duties to the state unless the officer or employee has a financial interest in the conduct upon which
15 the complaint or civil action arises.
16 (8) The amount of the civil penalty set forth in subsections (1) and (2) must be adjusted for inflation in
17 a manner consistent with the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410.
18 (9) If a governmental entity does not intervene, the person who initiated the action has the same right
19 to conduct the action as the government attorney would have had if the governmental entity had intervened,
20 including the right to inspect government records and interview officers and employees of the governmental
21 entity."

22
23 **Section 43.** Section 18-4-126, MCA, is amended to read:

24 **"18-4-126. Public access to procurement information -- records -- retention.** (1) Procurement
25 information is a public ~~writing~~ record and must be available to the public as provided in ~~2-6-102 [section 3],~~
26 18-4-303, and 18-4-304.

27 (2) All procurement records must be retained, managed, and disposed of in accordance with ~~the state~~
28 ~~records management program, Title 2, chapter 6~~ the provisions of [sections 1 through 21].

29 (3) Written determinations required by this chapter must be retained in the appropriate official contract
30 file of the department or the purchasing agency administering the procurement in accordance with ~~the state~~

1 ~~records management program [sections 1 through 21]."~~

2
3 **Section 44.** Section 19-2-403, MCA, is amended to read:

4 **"19-2-403. Powers and duties of board.** (1) The board shall administer the provisions of the chapters
5 enumerated in 19-2-302.

6 (2) The board may establish rules that it considers proper for the administration and operation of the
7 retirement systems and enforcement of the chapters under which each retirement system is established.

8 (3) The board shall establish uniform rules that are necessary to determine service credit for fractional
9 years of service.

10 (4) The board shall determine who are employees within the meaning of each retirement system. The
11 board is the sole authority for determining the conditions under which persons may become members of and
12 receive benefits under the retirement systems. A person whose job duties require proportional membership in
13 more than one retirement system is subject to the provisions of those systems.

14 (5) If fraud or error results in an employee or member being reported to the incorrect retirement system,
15 the board shall correct the error and adjust contributions as necessary.

16 (6) The board shall determine and may modify retirement benefits under the retirement systems. Benefits
17 may be paid only if the board decides, in its discretion, that the applicant is, under the provisions of the
18 appropriate retirement system, entitled to the benefits.

19 (7) In matters of board discretion under the systems, the board shall treat all persons in similar
20 circumstances in a uniform and nondiscriminatory manner.

21 (8) The board shall maintain records and accounts it determines necessary for the administration of the
22 retirement systems.

23 (9) The board shall enter into memoranda of understanding with the teachers' retirement system to
24 exchange retirement system-related confidential information regarding members, former members, or retirees.
25 A memorandum must state that:

26 (a) the information may be used only for reasons related to verifying appropriate pension plan
27 participation; and

28 (b) the requesting retirement system agrees to protect the confidentiality of the information and will
29 disclose the requested information only as necessary to conduct official business.

30 (10) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt actuarial

1 rates and rates of regular interest it determines appropriate for the administration of the retirement systems.

2 (11) The board shall review the sufficiency of benefits paid by the retirement system or plan and
3 recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under the
4 defined contribution plan that may be necessary for members and their beneficiaries to maintain a stable standard
5 of living.

6 (12) The board may implement third-party mailings under the provisions of ~~2-6-109~~ [section 11]. If
7 third-party mailings are implemented, the board shall adopt rules governing means of implementation, including
8 the specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees
9 generated by third-party mailings must be deposited in the appropriate retirement system fund for the benefit of
10 participants of retirement systems or plans administered by the board.

11 (13) In discharging duties, the board, a member of the board, or an authorized representative of the board
12 may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records,
13 and issue subpoenas to compel the attendance of witnesses and the production of books, papers,
14 correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104
15 of the Montana Administrative Procedure Act.

16 (14) The board may by rule or otherwise delegate to the board's executive director or any other staff
17 member any of the powers or duties conferred by law upon the board except as otherwise provided by law and
18 except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection (13)
19 or the contested case procedure of the Montana Administrative Procedure Act.

20 (15) The board shall perform other duties and may exercise the powers concerning the defined
21 contribution plan for plan members as provided in chapter 3, part 21, of this title."
22

23 **Section 45.** Section 19-17-111, MCA, is amended to read:

24 **"19-17-111. Records information management.** (1) The chief or designated official of a fire company
25 shall maintain the records provided for in 19-17-108 and 19-17-110 for each active or inactive member of the fire
26 company.

27 (2) Records must be maintained according to the state of Montana general records retention schedules,
28 as published by the secretary of state pursuant to ~~Title 2, chapter 6~~ [sections 13 through 21]."
29

30 **Section 46.** Section 22-1-211, MCA, is amended to read:

1 **"22-1-211. Definitions.** As used in this part, the following definitions apply:

2 (1) "Depository library" means a library contracted by the state library under 22-1-212(2) to provide the
3 general public access to state publications.

4 (2) "State agency" means any entity established or authorized by law to govern operations of the state,
5 such as a state office, officer, department, division, section, bureau, board, commission, council, and agency of
6 the state and all subdivisions of each.

7 (3) (a) "State publication" means any information originating in or produced by the authority of a state
8 agency or at the total or partial expense of a state agency that the agency intends to distribute outside the
9 agency, regardless of format or medium, source or copyright, license, or trademark.

10 (b) The term does not include information intended only for distribution to contractors or grantees of the
11 agency, persons within the agency, or members of the public under ~~2-6-102~~ section 3 or information produced
12 by a state agency that is intended strictly for internal administrative or operational purposes."

13
14 **Section 47.** Section 30-9a-522, MCA, is amended to read:

15 **"30-9A-522. Maintenance and destruction of records.** (1) Subject to the requirements of ~~Title 2,~~
16 ~~chapter 6, part 2~~ sections 13 through 21, the filing office shall maintain a record of the information provided in
17 a filed financing statement for at least 1 year after the effectiveness of the filed financing statement has lapsed
18 under 30-9A-515 with respect to all secured parties of record. The record must be retrievable by using the name
19 of the debtor and:

20 (a) if the record was filed or recorded in the filing office described in 30-9A-501(1)(a), by using the file
21 number assigned to the initial financing statement to which the record relates and the date and time that the
22 record was filed or recorded; or

23 (b) if the record was filed or recorded in the filing office described in 30-9A-501(1)(b), by using the date
24 and time file number assigned to the initial financing statement to which the record relates.

25 (2) Except to the extent that a statute governing disposition of public records provides otherwise, the
26 filing office may immediately destroy any written record evidencing a financing statement. However, if the filing
27 office destroys a written record, it shall maintain another record of the financing statement that complies with
28 subsection (1)."

29
30 **Section 48.** Section 30-14-1603, MCA, is amended to read:

1 **"30-14-1603. Department to provide for no-call list database -- rules -- inclusion of national**
2 **database -- database not public record -- no cost to subscribers.** (1) The department shall provide for the
3 operation of a database containing a list of names and telephone numbers of residential subscribers who object
4 to receiving telephone solicitations. A residential subscriber may be listed in the database without cost to the
5 subscriber.

6 (2) The department shall promulgate rules and regulations governing the state no-call database that are
7 necessary and appropriate to fully implement the provisions of this part. The rules must include but are not limited
8 to rules specifying:

9 (a) the methods by which each residential subscriber may give notice to the department or a contractor
10 designated by the department of the residential subscriber's objection to receiving telephone solicitations or the
11 methods by which the residential subscriber may revoke the notice;

12 (b) the length of time for which a notice of objection is effective and the effect of a change of telephone
13 number on the notice;

14 (c) the methods by which pertinent information may be collected and added to the no-call database;

15 (d) the methods for obtaining access to the no-call database by any person or entity desiring to make
16 telephone solicitations if that person or entity is required to avoid calling the residential subscribers included in
17 the no-call database;

18 (e) the cost to be assessed to a person or entity that is required to obtain access to the no-call database;
19 and

20 (f) other matters relating to the no-call database that the department considers desirable.

21 (3) If the federal communications commission establishes a single national database of telephone
22 numbers of residential subscribers who object to receiving telephone solicitations pursuant to 47 U.S.C. 227(c)(3),
23 the department shall include that part of the single national database that relates to Montana in the no-call
24 database established pursuant to this section.

25 (4) Information contained in the no-call database established pursuant to this section may be used only
26 for the purpose of compliance with 30-14-1602 and this section or in a proceeding or action pursuant to
27 30-14-1605. The information may not be considered a public record pursuant to Title 2, chapter 6 and is protected
28 from disclosure under [section 3].

29 (5) In April, July, October, and January of each year, the department shall make a reasonable attempt
30 to obtain subscription listings of residential subscribers in this state who have arranged to be included on any

1 national no-call list and add those names to the state no-call list."

2
3 **Section 49.** Section 30-17-101, MCA, is amended to read:

4 **"30-17-101. Electronic directory of Montana products.** (1) (a) The department of commerce shall
5 provide an electronic directory on the internet ~~or world wide web~~ of Montana businesses that market products
6 qualifying as made in Montana or grown in Montana, as described in subsection (5).

7 (b) The department may make a decision on the appropriateness of listing a business on the electronic
8 directory based upon the content or use of the products offered by the business.

9 (2) (a) The electronic directory may be compiled from eligible businesses that have contacted the
10 department of commerce and that have agreed to be listed electronically on the internet ~~or world wide web~~.
11 Agreement by a company also means that the company grants permission for inclusion on a mailing distribution
12 list pursuant to ~~2-6-109(1)~~ [section 11(1)].

13 (b) The department of commerce is not responsible for listing a company if that company has not
14 contacted the department, has not agreed to a listing pursuant to subsection (2), or does not qualify as having
15 products made in Montana or grown in Montana.

16 (3) The electronic directory may contain information allowing a potential customer to access directly a
17 business listed in the directory by telephone, mail, or electronic links if the business works with the department
18 of commerce to facilitate and maintain direct access.

19 (4) The department of commerce may not process orders for a business listed in the electronic directory
20 and is not responsible for handling customer questions or complaints on behalf of a business listed in the
21 electronic directory.

22 (5) For the purposes of this section, a product is considered made in Montana or grown in Montana if
23 the product has 50% or greater value-added within the state.

24 (6) For the purposes of this section, "value-added" means a finished product that has been created,
25 made, produced, or enhanced in Montana by Montana residents resulting in a 50% or greater value-added
26 product."

27
28 **Section 50.** Section 32-11-107, MCA, is amended to read:

29 **"32-11-107. Confidentiality.** (1) The director and other employees of the department may not disclose
30 information acquired by them in the discharge of their duties under this chapter except to the extent that

disclosure of the information is required by law, other than the public records provisions of ~~Title 2, chapter 6,~~
[section 3], or is required by court order.

(2) Notwithstanding subsection (1), the department may disclose information that is confidential under subsection (1) if the department determines that disclosure of the information is necessary to promote the public interest. This subsection does not authorize the disclosure of information acquired by the department in the course of an examination of a licensee.

(3) A BIDCO may provide to a current or prospective creditor or shareholder of the BIDCO a copy of an examination report on the BIDCO made by the department under this chapter."

Section 51. Section 33-1-1403, MCA, is amended to read:

"33-1-1403. Confidentiality. (1) The statement of actuarial opinion must be provided with the annual statement in accordance with the appropriate NAIC property and casualty annual statement instructions and is a public writing, record within the meaning of ~~2-6-101~~ [section 2].

(2) (a) Actuarial reports, work papers, and actuarial opinion summaries retained by the commissioner are trade secrets and are privileged. The materials must be given confidential treatment, are not subject to subpoena, and are not subject to discovery, and the materials are not admissible in evidence in any private civil litigation.

(b) Subsection (2)(a) does not limit the commissioner's authority to release the documents to the actuarial board for counseling and discipline if the material is required for the board's professional disciplinary proceedings and if the board establishes procedures satisfactory to the commissioner to preserve the confidentiality of the documents.

(3) This section does not limit the commissioner's authority to use the actuarial reports, work papers, actuarial opinion summaries, or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(4) The commissioner and any person who receives actuarial reports, work papers, actuarial opinion summaries, or other information while acting under the authority of the commissioner may not testify in any private civil action concerning the documents or information subject to the provisions of subsection (2).

(5) To assist in the performance of the commissioner's duties, the commissioner may provide and receive documents and information pursuant to 33-1-311.

(6) A waiver of privilege or claim of confidentiality in the actuarial reports, work papers, or actuarial

1 opinion summaries does not result from disclosure to the commissioner under this section or result from the
2 exchange of documents and information authorized in subsections (2)(b) and (5)."

3
4 **Section 52.** Section 33-28-108, MCA, is amended to read:

5 **"33-28-108. Examinations and investigations.** (1) (a) The commissioner or some competent person
6 appointed by the commissioner shall examine the affairs, transactions, accounts, records, and assets of each
7 captive insurance company as often as the commissioner considers advisable but no less frequently than every
8 5 years.

9 (b) The expenses and charges of the examination must be paid to the commissioner by the company
10 or companies examined.

11 (2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

12 (3) Except as provided in subsection (4), all examination reports, preliminary examination reports or
13 results, working papers, recorded information, documents, and their copies produced by, obtained by, or
14 disclosed to the commissioner or any other person in the course of an examination made under this section are
15 confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or
16 agent of the commissioner without the written consent of the company or upon court order.

17 (4) (a) Subsection (3) does not prevent the commissioner from using information obtained pursuant to
18 this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in
19 the commissioner's discretion, grant access to information obtained pursuant to this section to public officers
20 having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers
21 of this state or any other state or agency of the federal government at any time, as long as the officers receiving
22 the information agree in writing to hold it in a manner consistent with this section.

23 (b) Captive risk retention group reports produced pursuant to the examination requirements of this
24 section are public writings records as defined in ~~2-6-101~~ [section 2].

25 (5) Except as provided in subsection (6), the provisions of this section apply to all business written by
26 a captive insurance company.

27 (6) The examination for a branch captive insurance company may only be of branch business and
28 branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107(2)(d) to
29 the satisfaction of the commissioner.

30 (7) As a condition of licensure of a branch captive insurance company, the foreign captive insurance

1 company shall grant authority to the commissioner for examination of the affairs of the foreign captive insurance
2 company in the jurisdiction in which the foreign captive insurance company is formed."

3
4 **Section 53.** Section 46-23-110, MCA, is amended to read:

5 **"46-23-110. Records -- dissemination.** (1) The department and the board shall keep a record of the
6 board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as provided
7 in ~~2-6-102~~ [section 3] and this section.

8 (2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure
9 under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information
10 in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

11 (3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board
12 staff member shall review the file requested and determine whether any document in the file is subject to a
13 personal privacy or safety interest that clearly exceeds the merits of public disclosure.

14 (4) The board may assert the privacy or safety interest and may withhold a document if the board
15 determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the
16 document's contents would compromise the safety, order, or security of a facility or the safety of facility personnel,
17 a member of the public, or an inmate of the facility if disclosed.

18 (5) The board may not withhold from public scrutiny under subsections (2) through (4) any more
19 information than is required to protect an individual privacy interest or a safety interest.

20 (6) The board may charge a reasonable fee for copying and inspecting records.

21 (7) The board may limit the time and place that the records may be inspected or copied."
22

23 **Section 54.** Section 53-21-1108, MCA, is amended to read:

24 **"53-21-1108. (Temporary) Disclosure of information -- confidentiality.** (1) The department shall
25 provide the Montana suicide review team with a copy of each death certificate filed with the state that lists suicide
26 as the cause of death. The department may not charge a fee for providing the death certificate.

27 (2) The suicide review team may request and may receive information from:

28 (a) a county coroner;

29 (b) the state medical examiner provided for in 44-3-201;

30 (c) an appropriate tribal official as designated by a tribe; and

(d) a health care provider as permitted in Title 50, chapter 16, part 5 or 8, or applicable federal law.

(3) Upon request of the suicide review team, a health care provider may disclose information about a patient without the patient's authorization or without the authorization of the representative of a patient who is deceased.

(4) The suicide review team shall maintain the confidentiality of the information received pursuant to 53-21-1105 through 53-21-1110.

(5) Materials and information obtained by the suicide review team are not subject to subpoena ~~or to the requirements related to public records under Title 2, chapter 6~~ and are protected from disclosure under [section 3]. (Terminates June 30, 2016--sec. 16, ch. 353, L. 2013.)"

Section 55. Section 61-6-157, MCA, is amended to read:

"61-6-157. Creation of online motor vehicle liability insurance verification system. (1) The department, in cooperation with the commissioner of insurance, shall establish an accessible common carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or operator with motor vehicle liability policy requirements under 61-6-103, 61-6-301, and 61-6-302 and facilitate or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134.

(2) The department may contract with a private vendor or vendors to establish and maintain the system.

(3) The system must:

(a) send requests to insurers for verification of motor vehicle liability insurance using electronic services established by the insurers, through the internet, world wide web, or a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards;

(b) include appropriate provisions to secure its data against unauthorized access and to maintain a record of all requests and responses;

(c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, county treasurers, and authorized agents under the provisions of 61-3-116;

(d) interface, wherever possible, with existing department and law enforcement systems;

(e) receive insurance data file transfers from insurers under specifications and standards set forth in subsection (3)(a) to identify vehicles that are not covered by an insurance policy;

(f) provide a means by which low-volume insurers that are unable to deploy an online interface with the

1 system can report insurance policy data to the department or its designee for inclusion in the system;

2 (g) provide a means to track separately or distinguish motor vehicles that are subject to a certificate of
3 self-insurance under 61-6-143, a surety or indemnity bond under 61-6-137 or 61-6-301, or a deposit of cash or
4 securities under 61-6-138;

5 (h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled
6 maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed
7 by the department; and

8 (i) be used only for information-gathering and educational purposes until the completion of an appropriate
9 testing period of not less than 6 months.

10 (4) The provisions of ~~Title 2, chapter 6, parts 1 and 2, [sections 1 through 20]~~ do not apply to the
11 information contained in the verification system.

12 (5) Every insurer shall cooperate with the department in establishing and maintaining the system and
13 shall provide access to motor vehicle liability policy status information to verify liability coverage:

14 (a) for a vehicle insured by that company that is registered in this state; and

15 (b) if available, for a vehicle that is insured by that company or that is operated in this state and that is
16 the subject of an accident investigation regardless of where the vehicle is registered."

17
18 **Section 56.** Section 61-11-510, MCA, is amended to read:

19 **"61-11-510. Prerequisites to disclosure.** (1) Prior to the disclosure of personal information or highly
20 restricted personal information, as provided in 61-11-507, 61-11-508, or 61-11-509, the department shall require
21 the requester to complete and submit an application, in a form prescribed by the department, identifying the
22 requester and specifying the statutorily recognized uses for which the personal information or highly restricted
23 personal information is being sought.

24 (2) The department shall require the requester to provide identification acceptable to the department.

25 (3) (a) The department shall collect the appropriate fees paid by the requester and shall determine the
26 amount of the fees in accordance with 61-3-101, 61-11-105, and this subsection (3), and as appropriate, in
27 accordance with the terms of a contract between the department and the requester.

28 (b) The department shall ensure that fees established by policy or contract:

29 (i) recover the department's cost and expenses as provided in ~~2-6-110(2)~~ [section 4] and 61-3-101;

30 (ii) include an additional amount necessary to compensate the department for costs associated with

1 developing and maintaining the database from which information is requested; and

2 (iii) incorporate, when applicable, the convenience fee established under 2-17-1103.

3 (c) Except as provided in 61-11-105(5)(b) and subsection (3)(d) of this section, the department shall
4 charge a fee to any person, including a representative of a federal, state, or local government entity or member
5 of the news media who requests information under this section.

6 (d) The department may not charge a fee for information requested by the governor's office of budget
7 and program planning, the state tax appeal board, any legislative branch agency or committee, or any criminal
8 justice agency, as defined in 44-5-103."

9
10 **Section 57.** Section 81-2-115, MCA, is amended to read:

11 **"81-2-115. Confidentiality of information collected -- exceptions.** (1) Except as provided in
12 subsections (2) through (4), all information regarding the testing of any livestock that is owned by or in the
13 possession or custody of a livestock producer, livestock dealer as defined in 81-8-213, or livestock market as
14 defined in 81-8-213 that is collected by the department:

15 (a) must be held confidential by the department and its employees;

16 (b) is not a public writing as described in 2-6-101 and is exempt from the public disclosure provisions
17 of Title 2, chapter 6 record or public information as defined in [section 2] and is exempt from disclosure under
18 [section 3]; and

19 (c) is not subject to discovery or introduction into evidence in any civil action.

20 (2) For the purposes of this section, "livestock" has the meaning provided in 81-2-702.

21 (3) The administrator, appointed pursuant to 81-1-301, may disclose information collected by the
22 department from individual livestock producers, livestock dealers, or livestock markets for the purposes of the
23 department's animal health programs whenever in the administrator's judgment the disclosure will assist in the
24 implementation of the animal health programs. The administrator may disclose the information to another
25 governmental entity pursuant to the conditions described in subsection (4) or if the governmental entity confirms
26 in writing that the entity will maintain the confidentiality of the information.

27 (4) Animal disease diagnostic tests that identify the owner of the animal tested may not be disclosed
28 unless:

29 (a) the administrator determines that disclosure is necessary to prevent the spread of an animal disease
30 or to protect the public health;

(b) the owner gives written permission to disclose the information;

(c) the information is disclosed in actions or administrative proceedings commenced under the provisions of Title 81, chapter 2, 4, 5, 6, 8, 9, or 30;

(d) disclosure is required by subpoena or court order; or

(e) the information is disclosed to a law enforcement agency in connection with the investigation or prosecution of criminal offenses.

(5) Upon release by the administrator or the board of any information to any other governmental entity or to any person, the administrator shall:

(a) notify the person to whom the information refers or pertains that the release has been made and the name of the governmental entity or person to whom the information was released; and

(b) provide to the person to whom the information refers a copy or summary of the information contained in the release."

NEW SECTION. Section 58. Repealer. The following sections of the Montana Code Annotated are repealed:

2-6-101. Definitions.

2-6-102. Citizens entitled to inspect and copy public writings.

2-6-103. Filing and copying fees.

2-6-104. Records of officers open to public inspection.

2-6-105. Removal of public records.

2-6-106. Possession of records.

2-6-107. Proceedings to compel delivery of records.

2-6-108. Attachment and warrant to enforce.

2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.

2-6-110. Electronic information and nonprint records -- public access -- fees.

2-6-111. Custody and reproduction of records by secretary of state.

2-6-112. Concealment of public hazards prohibited -- concealment of information related to settlement or resolution of civil suits prohibited.

2-6-201. Purpose.

2-6-202. Definitions.

- 1 2-6-203. Secretary of state's powers and duties -- rulemaking authority.
- 2 2-6-204. State records committee approval.
- 3 2-6-205. Preservation of public records.
- 4 2-6-206. Protection and storage of essential records.
- 5 2-6-207. Certified copies of public records.
- 6 2-6-208. Records committee -- composition and meetings.
- 7 2-6-211. Transfer and storage of public records.
- 8 2-6-212. Disposal of public records.
- 9 2-6-213. Agency responsibilities and transfer schedules.
- 10 2-6-214. Department of administration -- powers and duties.
- 11 2-6-301. Definitions.
- 12 2-6-302. Official records management -- powers and duties.
- 13 2-6-303. Ownership of records -- transfer.
- 14 2-6-304. Outgoing officials -- records management duties.
- 15 2-6-307. Certified copies of official records.
- 16 2-6-401. Definitions.
- 17 2-6-402. Local government records committee -- creation.
- 18 2-6-403. Duties and responsibilities.
- 19 2-6-404. Rulemaking authority.
- 20 2-6-405. Destruction of local government public records prohibited prior to offering -- central registry --
- 21 notification.
- 22 2-6-501. Definitions.
- 23 2-6-502. Protection of social security numbers -- compliance.
- 24 2-6-503. Extensions.
- 25 2-6-504. Notification of breach of security of data system.

26

27 **NEW SECTION. Section 59. Codification instruction.** (1) [Sections 1 through 27] are intended to be
28 codified as an integral part of Title 2, chapter 6, and the provisions of Title 2, chapter 6, apply to [sections 1
29 through 27].

30 (2) [Sections 28 and 29] are intended to be codified as an integral part of Title 2, chapter 15, part 4, and

1 the provisions of Title 2, chapter 15, part 4, apply to [sections 28 and 29].

2 - END -

1 HOUSE BILL NO. 123

2 INTRODUCED BY D. JONES

3 BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND REORGANIZING MONTANA PUBLIC
6 RECORDS LAWS; UPDATING DEFINITIONS AND PROVIDING NEW DEFINITIONS; CLARIFYING ACCESS
7 TO PUBLIC INFORMATION; PROVIDING ~~PRIVACY~~ SAFETY AND SECURITY EXCEPTIONS; PROVIDING A
8 PROCEDURE FOR PUBLIC INFORMATION REQUESTS; ALLOWING FEES FOR PUBLIC INFORMATION
9 REQUESTS; ALLOWING SPECIAL FEES FOR CERTAIN INFORMATION; EMPHASIZING THE DISPOSITION
10 OF PUBLIC RECORDS ACCORDING TO RETENTION SCHEDULES; UPDATING THE REQUIREMENTS FOR
11 ESSENTIAL RECORDS; CLARIFYING THE PROHIBITION ON DISSEMINATING DISTRIBUTION LISTS;
12 REVISING THE RECORDS MANAGEMENT DUTIES OF THE SECRETARY OF STATE; REQUIRING
13 COLLABORATION BETWEEN THE DEPARTMENT OF ADMINISTRATION AND THE SECRETARY OF STATE;
14 EXPANDING THE MEMBERSHIP AND DUTIES OF THE STATE RECORDS COMMITTEE; PROVIDING
15 POWERS AND DUTIES OF THE MONTANA HISTORICAL SOCIETY FOR MANAGING HISTORIC RECORDS
16 AND CONSTITUTIONAL OFFICER RECORDS; CLARIFYING AGENCY RESPONSIBILITIES FOR RECORDS
17 MANAGEMENT; REVISING MEMBERSHIP AND DUTIES OF THE LOCAL GOVERNMENT RECORDS
18 COMMITTEE; REDUCING THE NOTICE REQUIREMENTS BEFORE DESTRUCTION OF CERTAIN LOCAL
19 GOVERNMENT RECORDS; UPDATING PROTECTIONS OF PERSONAL INFORMATION; PROVIDING
20 RULEMAKING AUTHORITY; AMENDING SECTIONS 2-3-212, 2-3-221, 2-3-301, 2-15-2017, 5-11-203, 7-4-2614,
21 7-5-2132, 7-5-4124, 7-11-1007, 13-1-303, 13-21-228, 15-1-103, 15-1-521, 15-62-209, 17-8-403, 18-4-126,
22 19-2-403, 19-17-111, 22-1-211, 30-9A-522, 30-14-1603, 30-17-101, 32-11-107, 33-1-1403, 33-28-108,
23 46-23-110, 53-21-1108, 61-6-157, 61-11-510, AND 81-2-115, MCA; AND REPEALING SECTIONS 2-6-101,
24 2-6-102, 2-6-103, 2-6-104, 2-6-105, 2-6-106, 2-6-107, 2-6-108, 2-6-109, 2-6-110, 2-6-111, 2-6-112, 2-6-201,
25 2-6-202, 2-6-203, 2-6-204, 2-6-205, 2-6-206, 2-6-207, 2-6-208, 2-6-211, 2-6-212, 2-6-213, 2-6-214, 2-6-301,
26 2-6-302, 2-6-303, 2-6-304, 2-6-307, 2-6-401, 2-6-402, 2-6-403, 2-6-404, 2-6-405, 2-6-501, 2-6-502, 2-6-503, AND
27 2-6-504, MCA."

28
29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

30

1 NEW SECTION. **Section 1. Purpose.** The purpose of this chapter is to ensure efficient and effective
2 management of public records and public information, in accordance with Article II, sections 8 through 10, of the
3 Montana constitution, for the state of Montana and its political subdivisions.

4
5 NEW SECTION. **Section 2. Definitions.** As used in this chapter, the following definitions apply:

6 (1) "Constitutional officer" means the governor, lieutenant governor, attorney general, secretary of state,
7 superintendent of public instruction, or auditor, who are the constitutionally designated and elected officials of the
8 executive branch of government.

9 (2) "Essential record" means a public record immediately necessary to:

10 (a) respond to an emergency or disaster;

11 (b) begin recovery or reestablishment of operations during and after an emergency or disaster;

12 (c) protect the health, safety, and property of Montana citizens; or

13 (d) protect the assets, obligations, rights, history, and resources of a public agency, its employees and
14 customers, and Montana citizens.

15 (3) "Executive branch agency" means a department, board, commission, office, bureau, or other public
16 authority of the executive branch of state government.

17 (4) "Historic record" means a public record found by the state archivist to have permanent administrative
18 or historic value to the state.

19 (5) "Local government" means a city, town, county, consolidated city-county, SPECIAL DISTRICT, or school
20 district or a subdivision of one of these entities.

21 (6) "Local government records committee" means the committee provided for in [section 22].

22 (7) "Permanent record" means a public record designated for long-term or permanent retention.

23 (8) "Public agency" means any political subdivision, including a ~~municipality, county, school district,~~
24 LOCAL GOVERNMENT and any agency or department of the state of Montana.

25 (9) "Public information" means information, ~~regardless of physical form or characteristics, relating to the~~
26 ~~conduct of the public's business and prepared, owned, used, or retained by any public agency~~ PREPARED, OWNED,
27 USED, OR RETAINED BY ANY PUBLIC AGENCY RELATING TO THE TRANSACTION OF OFFICIAL BUSINESS, REGARDLESS OF
28 FORM, EXCEPT FOR CONFIDENTIAL INFORMATION THAT MUST BE PROTECTED AGAINST PUBLIC DISCLOSURE UNDER
29 APPLICABLE LAW.

30 (10) "Public officer" means any person who has been elected or appointed as an officer of state or local

1 government.

2 (11) "Public record" means public information that is:

3 (a) fixed in any medium and is retrievable in usable form for future reference; and

4 (b) designated for retention by the state records committee, judicial branch, legislative branch, or local
5 government records committee.

6 (12) "Records manager" means an individual designated by a public agency to be responsible for
7 coordinating the efficient and effective management of the agency's public records and information.

8 (13) "State records committee" means the state records committee provided for in [section 15].
9

10 **NEW SECTION. Section 3. Access to public information -- ~~privacy~~ SAFETY and security exceptions**

11 **-- MONTANA HISTORICAL SOCIETY EXCEPTION.** (1) ~~Every~~ EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3), EVERY
12 person has a right to examine and obtain a copy of any public information of this state, except for information that
13 is constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of
14 public disclosure or as otherwise expressly prohibited by statute.

15 (2) A public officer may withhold from public scrutiny information relating to ~~individual privacy or individual~~
16 ~~or public safety or the security of public facilities, including public schools, jails, correctional facilities, private~~
17 ~~correctional facilities, and prisons, if release of the information may jeopardize~~ JEOPARDIZES the safety of facility
18 ~~personnel, the public, students in a public school, or inmates of a facility. Security features that may be protected~~
19 ~~under this section include but are not limited to architectural floor plans, blueprints, designs, drawings, building~~
20 ~~materials, alarm system plans, surveillance techniques, and facility staffing plans, including staff numbers and~~
21 ~~locations. A public officer may not withhold from public scrutiny any more information than is required to protect~~
22 ~~an individual privacy interest or safety or security interest~~ INDIVIDUAL OR PUBLIC SAFETY OR THE SECURITY OF PUBLIC
23 FACILITIES.

24 ~~(3) The provisions of this section do not apply to collections of the Montana historical society when~~
25 ~~restrictions on access have been imposed by collection creators or donors and the collections do not contain~~
26 ~~public information.~~

27 (3) THE MONTANA HISTORICAL SOCIETY MAY HONOR RESTRICTIONS IMPOSED BY PRIVATE RECORD DONORS AS
28 LONG AS THE RESTRICTIONS DO NOT APPLY TO PUBLIC INFORMATION. ALL RESTRICTIONS MUST EXPIRE NO LATER THAN
29 50 YEARS FROM THE DATE THE PRIVATE RECORD WAS RECEIVED. UPON THE EXPIRATION OF THE RESTRICTION, THE
30 PRIVATE RECORDS WILL BE MADE ACCESSIBLE TO THE PUBLIC.

1

2 **NEW SECTION. Section 4. Public information requests -- fees.** (1) A person may request public
3 information from a public agency. A public agency shall make the means of requesting public information
4 accessible to all persons.

5 (2) Upon receiving a request for public information, a public agency shall respond in a timely manner to
6 the requesting person ~~with an estimate of the time it will take to fulfill the request and any fees that may be~~
7 ~~charged pursuant to subsection (3) BY:~~

8 (A) MAKING THE PUBLIC INFORMATION MAINTAINED BY THE PUBLIC AGENCY AVAILABLE FOR INSPECTION AND
9 COPYING BY THE REQUESTING PERSON; OR

10 (B) PROVIDING THE REQUESTING PERSON WITH AN ESTIMATE OF THE TIME IT WILL TAKE TO FULFILL THE REQUEST
11 IF THE PUBLIC INFORMATION CANNOT BE READILY IDENTIFIED AND GATHERED AND ANY FEES THAT MAY BE CHARGED
12 PURSUANT TO SUBSECTION (3).

13 (3) A public agency may charge a fee for fulfilling a public information request. ~~The~~ EXCEPT WHERE A FEE
14 IS OTHERWISE PROVIDED FOR BY LAW, THE fee may not exceed the actual costs directly incident to fulfilling the
15 request in the most cost-efficient and timely manner possible. The fee must be documented. The fee may include
16 the time required to gather public information. THE PUBLIC AGENCY MAY REQUIRE THE REQUESTING PERSON TO PAY
17 THE ESTIMATED FEE PRIOR TO IDENTIFYING AND GATHERING THE REQUESTED PUBLIC INFORMATION.

18 (4) (A) THE SECRETARY OF STATE IS AUTHORIZED TO CHARGE FEES UNDER THIS SECTION. THE FEES MUST BE
19 SET AND DEPOSITED IN ACCORDANCE WITH 2-15-405. THE FEES MUST BE COLLECTED IN ADVANCE.

20 (B) THE SECRETARY OF STATE MAY NOT CHARGE A FEE TO A MEMBER OF THE LEGISLATURE OR PUBLIC OFFICER
21 FOR ANY SEARCH RELATIVE TO MATTERS PERTAINING TO THE DUTIES OF THE MEMBER'S OFFICE OR FOR A CERTIFIED COPY
22 OF ANY LAW OR RESOLUTION PASSED BY THE LEGISLATURE RELATIVE TO THE MEMBER'S OFFICIAL DUTIES.

23

24 **NEW SECTION. Section 5. Special fees allowable for certain information.** (1) In addition to the fee
25 allowed under [section 4], the department of revenue may charge an additional fee as reimbursement for the cost
26 of developing and maintaining the property valuation and assessment system database from which the
27 information is requested. The fee must be charged to persons, federal agencies, state agencies, and other
28 entities requesting the database or any part of the database from any department property valuation and
29 assessment system. The fee may not be charged to the governor's office of budget and program planning, the
30 state tax appeal board, or any legislative body or its members or staff.

(2) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property.

(3) All fees received by the department of revenue under [section 4] and this section must be deposited in the property value improvement fund as provided in 15-1-521.

(4) In accordance with the fees allowed under [section 4], the Montana historical society may charge fees as approved by its board of trustees for copies of materials contained in its collections, based on documentable curatorial duties as set forth in 22-3-101.

NEW SECTION. Section 6. Management of public records -- disposal and destruction. (1) (a) Each public officer is responsible for properly managing the public records within the public officer's possession or control through an established records management plan that satisfies the requirements of this chapter.

(b) Executive branch agencies shall manage public records according to the provisions of [sections 13 through 21] and the rules and guidelines established by the secretary of state, the state records committee, and the Montana historical society.

(c) Local governments shall manage public records according to the provisions of [sections 22 through 24] and the rules and guidelines established by the secretary of state, the local government records committee, and the Montana historical society.

(d) Pursuant to 5-2-503 and 5-11-105, the legislative council shall administer the records management plan for the legislative branch. The legislative branch may seek assistance from the secretary of state, the state records committee, the local government records committee, and the Montana historical society regarding development, implementation, and administration of the legislative records management plan.

(e) The judicial branch shall establish a records management plan. The judicial branch may seek assistance from the secretary of state, the state records committee, the local government records committee, and the Montana historical society regarding development, implementation, and administration of the judicial records management plan.

(2) When a public record has reached the end of its retention period, the public officer shall ensure the record is disposed of, destroyed, or transferred according to the provisions of this chapter.

NEW SECTION. Section 7. Preservation of public records -- possession of public records. (1) All

1 public records are and remain the property of the ~~state~~ PUBLIC AGENCY POSSESSING THE RECORDS. The public
2 records must be delivered by outgoing public officers and employees to their successors and must be preserved,
3 stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of
4 this chapter.

5 (2) If an outgoing public officer or employee refuses or fails to deliver to the current public officer or
6 employee any public records that pertain to that public office, the current public officer or employee may file a
7 complaint in the district court of the county where the outgoing public officer or employee resides, pursuant to the
8 Montana Rules of Civil Procedure, to compel the outgoing public officer or employee to deliver any public records
9 still in the outgoing public officer or employee's possession to the current public officer or employee.

10
11 NEW SECTION. Section 8. Written notice of denial -- civil action -- costs to ~~plaintiff~~ PREVAILING
12 PARTY in certain actions to enforce constitutional OR STATUTORY rights. (1) A public agency that denies an
13 information request to release information or records shall provide a written explanation for the denial.

14 (2) If a person who makes an information request receives a denial from a public agency and believes
15 that the denial violates the provisions of this chapter, the person may file a complaint pursuant to the Montana
16 Rules of Civil Procedure in district court.

17 (3) A ~~plaintiff~~ PERSON WHOSE ORIGINAL INFORMATION REQUEST WAS DENIED who prevails in an action
18 brought in district court to enforce the ~~plaintiff's~~ PERSON'S rights under Article II, section 9, of the Montana
19 constitution OR UNDER THE PROVISIONS OF [SECTIONS 1 THROUGH 24] ~~may~~ MUST be awarded costs and reasonable
20 attorney fees.

21
22 NEW SECTION. Section 9. Certified copies of records -- historic records and constitutional
23 officer records -- EXCEPTION. (1) A person may request a certified copy of a public record from a public agency
24 subject to the provisions of [section 3]. The public agency may charge a fee for the certified copy in accordance
25 with [section 4].

26 (2) A person may request a certified copy of a historic record or a constitutional officer record from the
27 Montana historical society subject to the provisions of [section 3]. The Montana historical society may charge a
28 fee for the certified copy in accordance with [sections 4 and 5(4)].

29 (3) A certified copy created by the Montana historical society of a historic record or a constitutional officer
30 record has the same force in law as if made by the original public agency that created the record.

(4) PURSUANT TO 2-15-403, THIS SECTION DOES NOT APPLY TO CERTIFIED COPIES PROVIDED BY THE SECRETARY OF STATE FOR INFORMATION CONTAINED IN THE SECRETARY OF STATE'S CORPORATE AND UNIFORM COMMERCIAL CODE ELECTRONIC FILING SYSTEM.

NEW SECTION. Section 10. Protection and storage of essential records. (1) To provide for the continuity and preservation of civil government, each public officer shall designate certain public records as essential records. The list must be continually maintained by the public officers to ensure its accuracy. Each public officer shall collaborate with the appropriate continuity of government programs to ensure essential records are identified and maintained.

(2) Each public officer shall ensure essential records are efficiently and effectively secured. Each public officer shall look to the guidance provided by the state records committee or the local government records committee in choosing appropriate methods to protect, store, back up, and recover essential records.

NEW SECTION. Section 11. Prohibition on dissemination or use of distribution lists -- exceptions -- penalties. (1) Except as provided in subsections (3) through (9), to protect the privacy of those who deal with state and local government:

(a) a public agency may not distribute or sell a distribution list without first securing the permission of those on the list; and

(b) a list of persons prepared by a public agency may not be used as a distribution list without first securing the permission of those on the list except by that agency.

(2) As used in this section, "distribution list" means any list of personal contact information collected by a public agency and used to facilitate unsolicited contact with individuals on the distribution list.

(3) This section does not prevent an individual from compiling a distribution list by examination of records that are otherwise open to public inspection.

(4) This section does not apply to the lists of:

(a) registered electors and the new voter lists provided for in 13-2-115;

(b) the names of employees governed by Title 39, chapter 31;

(c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127;

(d) persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37, chapters 1 through 4, 6 through 20, 22 through 29, 31, 34 through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through

69, 72, and 73; and Title 50, chapters 39, 72, 74, and 76; or

(e) persons certified as claims examiners under 39-71-320.

(5) This section does not prevent an agency from providing a list to persons providing prelicensing or continuing education courses subject to state law or subject to Title 33, chapter 17.

(6) This section does not apply to the right of access by Montana law enforcement agencies.

(7) This section does not apply to ~~a corporate information list developed by the secretary of state containing the name, address, registered agent, officers, and directors of business, nonprofit, religious, professional, and close corporations authorized to do business in this state~~ THE SECRETARY OF STATE'S ELECTRONIC FILING SYSTEM DEVELOPED PURSUANT TO 2-15-404 AND CONTAINING CORPORATE AND UNIFORM COMMERCIAL CODE INFORMATION.

(8) This section does not apply to the use by the public employees' retirement board of a list of board-administered retirement system participants to send materials on behalf of a retiree organization formed for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the list is not released to the organization.

(9) THIS SECTION DOES NOT APPLY TO LISTS OF INDIVIDUALS WHO SIGN ATTENDANCE SHEETS OR SIGN-IN SHEETS AT A HEARING OR MEETING OF A PUBLIC AGENCY.

~~(9)(10)~~ This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.

~~(10)(11)~~ A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.

NEW SECTION. Section 12. Concealment of public hazards prohibited -- concealment of information related to settlement or resolution of civil suits prohibited. (1) This section may be cited as the "Gus Barber Antisecrecy Act".

(2) As used in this section, "public hazard" means a device, instrument, or manufactured product or a condition of a device, instrument, or manufactured product that endangers public safety or health and has caused injury, as defined in 27-1-106.

(3) Except as otherwise provided in this section, a court may not enter a final order or judgment that has the purpose or effect of concealing a public hazard.

(4) Any portion of a final order or judgment entered or a written final settlement agreement entered into

1 that has the purpose or effect of concealing a public hazard is contrary to public policy, is void, and may not be
2 enforced. This section does not prohibit the parties from keeping the monetary amount of a written final settlement
3 agreement confidential.

4 (5) A party to civil litigation may not request, as a condition to the production of discovery, that another
5 party stipulate to an order that would violate this section.

6 (6) This section does not apply to:

7 (a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected
8 pursuant to Title 30, chapter 14, part 4;

9 (b) other information that is confidential under state or federal law; or

10 (c) a health care provider, as defined in 27-6-103.

11 (7) Any affected person, including but not limited to a representative of the news media, has standing
12 to contest a final order or judgment or written final settlement agreement that violates this section by motion in
13 the court in which the case was filed.

14 (8) The court shall examine the disputed information or materials in camera. If the court finds that the
15 information or materials or portions of the information or materials consist of information concerning a public
16 hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow
17 disclosure of only that portion of the information or materials necessary or useful to the public concerning the
18 public hazard.

19 (9) This section does not apply to a protective order issued under Rule 26(c) of the Montana Rules of
20 Civil Procedure or to any materials produced under the order. Materials used as exhibits may be publicly
21 disclosed pursuant to the provisions of subsections (7) and (8).

22
23 **NEW SECTION. Section 13. Secretary of state -- powers and duties -- rulemaking authority. (1)**

24 To ensure the proper management and safeguarding of public records, the secretary of state shall:

25 (a) establish guidelines based on accepted industry standards for managing public records;

26 (b) upon request of another executive branch agency, review, analyze, and make recommendations
27 regarding executive branch agency filing systems and procedures;

28 (c) operate the state records center for the purpose of storing and servicing public records not retained
29 in office space;

30 (d) provide information and training materials for all phases of efficient and effective records

1 management;

2 (e) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies;

3 (f) consult with the department of administration pursuant to [section 14];

4 (g) adopt rules regarding management of public records;

5 (h) adopt rules to implement the objectives of the state records committee and local government records
6 committee; and

7 (i) upon request, assist and advise in the establishment of records management procedures in the
8 legislative and judicial branches of state government and provide services similar to those available to the
9 executive branch.

10 (2) In addition to the requirements under subsection (1), the secretary of state may operate a central
11 microfilm unit to microfilm, on a cost recovery basis, all records approved for filming by the office of origin and
12 the secretary of state.

13
14 **NEW SECTION. Section 14. Department of administration -- powers and duties.** (1) To ensure
15 compatibility with the information technology systems of state government and to promote adherence to records
16 management principles and best practices, the department of administration, in consultation with the secretary
17 of state, shall establish standards for technological compatibility for state agencies for records management
18 equipment or systems used to electronically capture, store, or retrieve public records through computerized,
19 optical, or other electronic methods.

20 (2) The department of administration, in consultation with the secretary of state, shall approve all
21 acquisitions of executive branch agency records management equipment or systems used to electronically
22 capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure
23 compatibility with the standards developed under subsection (1).

24 (3) The department of administration is responsible for the management and operation of equipment,
25 systems, facilities, and processes integral to the department's central computer center and statewide
26 telecommunications system.

27
28 **NEW SECTION. Section 15. State records committee -- composition and meetings.** (1) There is
29 a state records committee composed of:

30 (a) representatives of:

- 1 (i) the department of administration;
2 (ii) the legislative auditor;
3 (iii) the attorney general;
4 (iv) the secretary of state;
5 (v) the Montana historical society;
6 (vi) the clerk of the supreme court; and
7 (vii) the state chief information officer; and

8 (b) five members representing executive branch agencies designated pursuant to subsections (4) and
9 (5).

10 (2) The state records committee is administered by the secretary of state, and the secretary of state's
11 representative serves as the presiding officer for the committee.

12 (3) The committee members representing the agencies in subsection (1)(a) are designated by the heads
13 of the respective agencies, and their appointments must be submitted in writing to the secretary of state. These
14 committee members serve at the pleasure of the heads of their respective agencies.

15 (4) To implement subsection (1)(b), the committee members in subsection (1)(a) shall develop a rotation
16 by which each of the executive branch agencies is designated to select a representative to serve a 2-year term
17 as a committee member. The secretary of state shall adopt the rotation by administrative rule.

18 (5) The committee shall establish guidelines for the heads of executive branch agencies in appointing
19 representatives to ensure the executive branch representatives provide a balance of perspectives from records
20 management, information technology, and legal professionals.

21 (6) The committee shall meet at least quarterly.

22 (7) Committee members shall serve without additional salary but are entitled to reimbursement for travel
23 expenses incurred while engaged in committee activities as provided for in 2-18-501 through 2-18-503. Expenses
24 must be paid from the appropriations made for operation of their respective agencies.

25
26 **NEW SECTION. Section 16. State records committee duties and responsibilities.** The purpose of
27 the state records committee is to act as a resource for executive branch agencies and others by staying at the
28 forefront of records management best practices. The committee shall:

- 29 (1) gather and disseminate information on all phases of records management;
30 (2) advise the secretary of state in developing records management standards, guidelines, and training

1 materials;

2 (3) develop guidelines to help agencies identify, maintain, and secure their essential records;

3 (4) serve as a forum for continuing collaboration among records management, information technology,
4 and legal professionals throughout state agencies;

5 (5) make recommendations to the secretary of state for rulemaking regarding public records
6 management;

7 (6) regularly review existing public records laws and make recommendations to the secretary of state
8 regarding pursuing statutory change; and

9 (7) report biennially to the governor and, as provided in 5-11-210, the legislature on the activities of the
10 committee, improvements in records management in state government, aspects of records management requiring
11 further improvement, and committee recommendations and plans for further improvement.

12
13 **NEW SECTION. Section 17. Retention and disposition subcommittee -- approval required for**
14 **record disposal.** (1) There is a subcommittee of the state records committee to be known as the retention and
15 disposition subcommittee. The subcommittee is composed of the members of the state records committee who
16 represent the following offices:

17 (a) the department of administration;

18 (b) the legislative auditor;

19 (c) the attorney general;

20 (d) the secretary of state; and

21 (e) the Montana historical society.

22 (2) The subcommittee shall approve, modify, or disapprove the recommendations on retention schedules
23 of all public records.

24 (3) Except as provided in subsection (4), no public record may be disposed of or destroyed without the
25 unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction
26 must be submitted to the subcommittee by the agency concerned.

27 (4) The subcommittee may by unanimous approval establish categories of records for which no disposal
28 request is required if those records are retained for the designated retention period.

29
30 **NEW SECTION. Section 18. Historic records -- Montana historical society -- powers and duties.**

1 To ensure the proper management and safeguarding of historic records, the Montana historical society shall:

2 (1) establish and operate the state archives as authorized by appropriation for the purpose of storing,
3 preserving, and providing access to historic records transferred to the custody of the state archives;

4 (2) in cooperation with the secretary of state, the local government records committee, and the state
5 records committee, establish guidelines to inventory, catalog, retain, transfer, and provide access to all historic
6 records;

7 (3) maintain and enforce restrictions on access to historic records in the custody of the state archives
8 in accordance with the provisions of this part; and

9 (4) in accordance with the guidelines established pursuant to subsection (2), remove and destroy
10 duplicate records and records considered to have no historical value.

11
12 **NEW SECTION. Section 19. Constitutional officer records -- Montana historical society.** (1) All
13 constitutional officer records are the property of the state. The records must be delivered by outgoing
14 constitutional officers to their successors, who shall preserve, store, transfer, destroy, or dispose of and otherwise
15 manage them in accordance with the provisions of this section.

16 (2) Within 2 years after taking office as a constitutional officer, the current constitutional officer shall
17 consult with staff members of the Montana historical society and transfer to the Montana historical society all of
18 the constitutional officer records of the prior officeholder that are not necessary to the current operation of that
19 office and are considered worthy of preservation.

20 (3) An outgoing constitutional officer, in consultation with staff members of the Montana historical society,
21 shall review constitutional officer records and isolate any items of a purely personal nature. The personal papers
22 are not subject to this section, but they may be deposited along with the constitutional officer records at the
23 Montana historical society at the constitutional officer's discretion.

24 (4) An outgoing constitutional officer, in consultation with staff members of the Montana historical society,
25 may restrict access to certain segments of that officer's records. Restrictions may not be longer than the lifetime
26 of the depositing official. Restricted access may be imposed only to protect the confidentiality of personal
27 information contained in the records. Restricted access may not be imposed unless the demand of individual
28 privacy clearly exceeds the merits of public disclosure.

29 (5) Any question concerning the transfer or other status of constitutional officer records arising between
30 the state archives and a constitutional officer's office must be decided by a four-fifths vote of the members of the

1 retention and disposition subcommittee provided for in [section 17].

2
3 **NEW SECTION. Section 20. Permanent records -- agency responsibilities -- state records center.**

4 (1) All permanent records no longer required in the current operation of the office where they are made or kept
5 and all records of each agency or activity of the executive branch of state government that has been abolished
6 or discontinued must be maintained by the agency or transferred to the state records center in accordance with
7 approved records retention schedules.

8 (2) When records are transferred to the state records center, the transferring agency does not lose its
9 rights of control and access. The state records center is merely a custodian of the agency records, and access
10 is only by agency approval. Agency records for which the state records center acts as custodian may not be
11 subpoenaed from the state records center but must be subpoenaed from the agency to which the records belong.
12 The state records center may charge fees to cover the cost of records storage and servicing.

13 (3) Prior to transferring a permanent record to the state records center, the transferring agency shall
14 consult with the state archivist to determine whether the record is also a historic record. If the record is found to
15 be a historic record, it must be transferred to the Montana historical society in accordance with the provisions of
16 [section 18].

17
18 **NEW SECTION. Section 21. Agency records management duties.** Each department head shall
19 administer the executive branch agency's records management function and shall:

20 (1) coordinate all aspects of the agency records management function in accordance with procedures
21 prescribed by the secretary of state and the state records committee;

22 (2) analyze records inventory data and examine and compare all inventories within the agency to
23 minimize duplication of records;

24 (3) review and approve records disposal requests for submission to the retention and disposition
25 subcommittee;

26 (4) review established records retention schedules to ensure they are complete and current and make
27 recommendations to the secretary of state and the state records committee regarding minimal retentions for all
28 copies of public records within the agency;

29 (5) incorporate records management requirements into the agency information technology plan provided
30 for in 2-17-523;

(6) ensure that all agency employees receive appropriate and ongoing records management training;
and

(7) after considering guidance from the state records committee regarding records manager qualifications, officially designate a qualified agency records manager to manage the functions provided for in this section.

NEW SECTION. Section 22. Local government records committee -- composition and meetings.

(1) There is a local government records committee.

(2) The committee consists of the following eight members:

(a) the state archivist;

(b) the state records manager;

(c) a representative of the department of administration;

(d) two local government records managers appointed by the director of the Montana historical society;

(e) two local government records managers appointed by the secretary of state; and

(f) a person representing the Montana state genealogical society, appointed by the secretary of state, who shall serve as a volunteer.

(3) Committee members subject to appointment shall hold office for a period of 2 years beginning January 1 of the year following their appointment.

(4) Vacancies must be filled in the same manner they were filled originally.

(5) The committee shall elect a presiding officer and a vice presiding officer.

(6) The committee shall meet at least twice a year upon the call of the secretary of state or the presiding officer.

(7) Except for the member appointed in subsection (2)(f), members of the committee not serving as part of their compensated government employment must be compensated in accordance with 2-18-501 through 2-18-503 for each day in committee attendance. Members who serve as part of their compensated government employment may not receive additional compensation, but the employing governmental entity shall furnish, in accordance with the prevailing per diem rates, a reasonable allowance for travel and other expenses incurred in attending committee meetings.

NEW SECTION. Section 23. Local government records committee -- duties and responsibilities.

1 The local government records committee shall:

2 (1) approve, modify, or disapprove proposals for local government records retention and disposition
3 schedules;

4 (2) appoint a subcommittee, known as the local government records destruction subcommittee, to handle
5 requests for disposal of records. The subcommittee consists of the state archivist, one of the local government
6 records managers, and the representative of the department of administration. Unless specifically authorized by
7 statute or by the retention and disposition schedule, a local government public record may not be destroyed or
8 otherwise disposed of without the unanimous approval of the subcommittee. When approval is required, a request
9 for the disposal or destruction of local government records must be submitted to the subcommittee by the entity
10 concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must
11 be referred to the local government records committee for approval. When approval is obtained from the
12 subcommittee or from the local government records committee for the disposal of a record, the local government
13 records committee shall consider the inclusion of a new category of record for which a disposal request is not
14 required and shall update the schedule as necessary.

15 (3) establish a retention and disposition schedule for categories of records for which a disposal request
16 is not required. The local government records committee shall publish the retention and disposition schedules.
17 Updates to those schedules, if any, must be published at least annually.

18 (4) develop guidance for local governments to identify, maintain, and secure their essential records;

19 (5) respond to requests for technical advice on matters relating to local government records; and

20 (6) provide leadership and coordination in matters affecting the records of multiple local governments.
21

22 **NEW SECTION. Section 24. Disposal of local government public records prohibited prior to**
23 **offering -- central registry -- notification.** (1) A local government public record more than 10 years old may not
24 be destroyed unless it is first offered to the Montana historical society, the state archives, Montana public and
25 private universities and colleges, local historical museums, local historical societies, Montana genealogical
26 groups, and the general public.

27 (2) The availability of a public record to be destroyed must be noticed to the entities listed in subsection
28 (1) at least 60 days prior to disposal.

29 (3) (a) Claimed records must be given to entities in the order of priority listed in subsection (1).

30 (b) All expenses for the removal of claimed records must be paid by the entity claiming the records.

(c) The local government records committee shall establish procedures by which public records must be offered and claimed pursuant to this section.

(d) The local government records committee shall develop and maintain a central registry of the entities identified in subsection (1) who are interested in receiving notice of the potential destruction of public records pursuant to this section. The registry must be constructed to allow a local government entity to notify the local government records committee when the entity intends to destroy documents covered under this section and allows the local government records committee to subsequently notify the entities in the registry. A local government entity's notice to the local government records committee pursuant to this subsection (3)(d) and the records committee's notice to the entities listed on the registry fulfills the notification requirements of this section.

NEW SECTION. Section 25. Definitions. As used in [sections 25 through 27], the following definitions apply:

(1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of computerized data that:

(a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of a state agency; and

(b) causes or is reasonably believed to cause loss or injury to a person.

(2) "Individual" means a human being.

(3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character.

(4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and data elements are not encrypted:

(i) a social security number or tax identification number;

(ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; or

(iii) an account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to a person's financial account.

(b) The term does not include publicly available information from federal, state, local, or tribal government records.

(5) "Redaction" means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.

(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.

(b) The term does not include an entity of the judicial branch.

(7) "Third party" means:

(a) a person with a contractual obligation to perform a function for a state agency; or

(b) a state agency with a contractual or other obligation to perform a function for another state agency.

NEW SECTION. Section 26. Protection of personal information -- compliance -- extensions. (1)

Each state agency that maintains the personal information of an individual shall develop procedures to protect the personal information while enabling the state agency to use the personal information as necessary for the performance of its duties under federal or state law.

(2) The procedures must include measures to:

(a) eliminate the unnecessary use of personal information;

(b) identify the person or state agency authorized to have access to personal information;

(c) restrict access to personal information by unauthorized persons or state agencies;

(d) identify circumstances in which redaction of personal information is appropriate;

(e) dispose of documents that contain personal information in a manner consistent with other record retention requirements applicable to the state agency;

(f) eliminate the unnecessary storage of personal information on portable devices; and

(g) protect data containing personal information if that data is on a portable device.

(3) Except as provided in subsection (4), each state agency that is created after [the effective date of this act] shall complete the requirements of this section within 1 year of its creation.

(4) The chief information officer provided for in 2-17-511 may grant an extension to any state agency subject to the provisions of the Montana Information Technology Act provided for in Title 2, chapter 17, part 5. The chief information officer shall inform the information technology board, the office of budget and program

1 planning, and the legislative finance committee of all extensions that are granted and of the rationale for granting
2 the extensions. The chief information officer shall maintain written documentation that identifies the terms and
3 conditions of each extension and the rationale for the extension.

4
5 **NEW SECTION. Section 27. Notification of breach of security of data system.** (1) (a) Upon
6 discovery or notification of a breach of the security of a data system, a state agency that maintains computerized
7 data containing personal information in the data system shall make reasonable efforts to notify any person whose
8 unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized
9 person.

10 (b) The notification must be made without unreasonable delay, consistent with the legitimate needs of
11 law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the
12 breach and to restore the reasonable integrity of the data system.

13 (2) (a) A third party that receives personal information from a state agency and maintains that information
14 in a computerized data system to perform a state agency function shall:

15 (i) notify the state agency immediately following discovery of the breach if the personal information is
16 reasonably believed to have been acquired by an unauthorized person; and

17 (ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose
18 unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as
19 part of the breach. This notification must be provided in the same manner as the notification required in
20 subsection (1).

21 (b) A state agency notified of a breach by a third party has no independent duty to provide notification
22 of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a)
23 but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third
24 party its reasonable costs for providing the notice.

25 (3) The notification required by this section may be delayed if a law enforcement agency determines that
26 the notification will impede a criminal investigation and requests a delay of notification. The notification required
27 by this section must be made after the law enforcement agency determines that the notification will not
28 compromise the investigation.

29 (4) All state agencies and third parties to whom personal information is disclosed by a state agency shall
30 develop and maintain:

- 1 (a) an information security policy designed to safeguard personal information; and
2 (b) breach notification procedures that provide reasonable notice to individuals as provided in
3 subsections (1) and (2).

4
5 **NEW SECTION. Section 28. Custody and reproduction of certain records by secretary of state.**

6 (1) The secretary of state is charged with the custody of:

- 7 (a) the enrolled copy of the constitution;
8 (b) all the acts and resolutions passed by the legislature;
9 (c) the journals of the legislature;
10 (d) the great seal;
11 (e) all ~~books, records, parchments, maps, and papers~~ DOCUMENTS kept or deposited in the secretary of
12 state's office pursuant to law.

13 (2) All records included in subsection (1) may be kept and reproduced in accordance with rules adopted
14 by the secretary of state in consultation with the state records committee provided for in [section 15].

15 (3) The state records committee may approve the disposal of original records once those records are
16 reproduced as provided for in subsection (2) unless disposal takes the form of transfer of records. Reproduction
17 is not necessary for transferred records. The reproduction or certified copy of a record may be used in place of
18 the original for all purposes, including as evidence in any court or proceeding, and has the same force and effect
19 as the original record.

20 ~~(4) The secretary of state shall prepare enlarged typed or photographic copies of the records whenever~~
21 ~~their production is required by law.~~

22 ~~———— (5) At least two copies must be made of all records reproduced as provided for in subsection (2). The~~
23 ~~secretary of state shall place one copy in a fireproof storage place and shall retain the other copy in the office with~~
24 ~~suitable equipment for displaying a record by projection to not less than its original size and for preparing copies~~
25 ~~of the record for persons entitled to copies.~~

26 ~~———— (6) All duplicates of records must be identified and indexed.~~

27
28 ~~———— **NEW SECTION. Section 29. Filing and copying fees -- exceptions.** (1) The secretary of state shall~~
29 ~~charge and collect fees for filing and copying services.~~

30 ~~———— (2) A member of the legislature or a state or county officer may not be charged for a search relative to~~

1 ~~matters pertaining to the duties of the member's or officer's office or for a certified copy of any law or resolution~~
2 ~~passed by the legislature relative to the member's or officer's official duties.~~

3 ~~—— (3) The secretary of state may not charge a fee, other than as authorized in [section 4], for providing~~
4 ~~public information.~~

5 ~~—— (4) Fees must be collected in advance and are not refundable.~~

6 ~~—— (5) Fees authorized by this section must be set and deposited in accordance with 2-15-405.~~

7
8 **SECTION 29. SECTION 2-3-212, MCA, IS AMENDED TO READ:**

9 **"2-3-212. Minutes of meetings -- public inspection.** (1) Appropriate minutes of all meetings required
10 by 2-3-203 to be open must be kept and must be available for inspection by the public. If an audio recording of
11 a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an
12 official recording is made, a written record of the meeting must also be made and must include the information
13 specified in subsection (2).

14 (2) Minutes must include without limitation:

15 (a) the date, time, and place of the meeting;

16 (b) a list of the individual members of the public body, agency, or organization who were in attendance;

17 (c) the substance of all matters proposed, discussed, or decided; and

18 (d) at the request of any member, a record of votes by individual members for any votes taken.

19 (3) If the minutes are recorded and designated as the official record, a log or time stamp for each main
20 agenda item is required for the purpose of providing assistance to the public in accessing that portion of the
21 meeting.

22 (4) Any time a presiding officer closes a public meeting pursuant to 2-3-203, the presiding officer shall
23 ensure that accurate and appropriate minutes are kept of the closed portion of the meeting. The minutes from
24 the closed portion of the meeting may not be made available for inspection except pursuant to a court order."

25
26 **SECTION 30. SECTION 2-3-221, MCA, IS AMENDED TO READ:**

27 **"2-3-221. Costs to plaintiff prevailing party in certain actions to enforce constitutional right to**
28 **know.** A plaintiff person who alleges a violation and who prevails in an action brought in district court to enforce
29 the plaintiff's rights under Article II, section 9, of the Montana constitution ~~may~~ must be awarded costs and
30 reasonable attorney fees."

1
2 **Section 31.** Section 2-3-301, MCA, is amended to read:

3 **"2-3-301. Agency to accept public comment electronically -- dissemination of electronic mail**
4 **address and documents required -- ~~prohibiting fees~~ prohibited.** (1) An agency that accepts public comment
5 pursuant to a statute, administrative rule, or policy, including an agency adopting rules pursuant to the Montana
6 Administrative Procedure Act or an agency to which 2-3-111 applies, shall provide for the receipt of public
7 comment by the agency by use of an electronic mail system.

8 (2) As part of the agency action required by subsection (1), an agency shall disseminate by appropriate
9 media its electronic mail address to which public comment may be made, including dissemination in:

- 10 (a) rulemaking notices published pursuant to the Montana Administrative Procedure Act;
11 (b) the telephone directory of state agencies published by the department of administration;
12 (c) any notice of agency existence, purpose, and operations published on the internet ~~world-wide web,~~
13 ~~popularly known as a "website", used by the agency; or~~
14 (d) any combination of the methods of dissemination provided in subsections (2)(a) through (2)(c).

15 (3) An agency shall, at the request of another agency or person and subject to ~~2-6-102~~ section 3,
16 disseminate the electronic documents to that agency or person by electronic mail in place of surface mail.
17 Notification of the availability of an electronic notice of proposed rulemaking may be sent to an interested person
18 as provided in 2-4-302(2)(a)(ii). An agency may not charge a fee for providing documents by electronic mail in
19 accordance with this subsection.

20 (4) An agency that receives electronic mail pursuant to subsection (1) shall retain the electronic mail as
21 either an electronic or a paper copy to the same extent that other comments are retained.

22 (5) As used in this section, "agency" means a department, division, bureau, office, board, commission,
23 authority, or other agency of the executive branch of state government."
24

25 **Section 32.** Section 2-15-2017, MCA, is amended to read:

26 **"2-15-2017. Domestic violence fatality review commission -- confidentiality of meetings and**
27 **records -- criminal liability for unauthorized disclosure -- report to legislature.** (1) There is a domestic
28 violence fatality review commission in the department of justice.

29 (2) The commission shall:

- 30 (a) examine the trends and patterns of domestic violence-related fatalities in Montana;

(b) educate the public, service providers, and policymakers about domestic violence fatalities and strategies for intervention and prevention; and

(c) recommend policies, practices, and services that may encourage collaboration and reduce fatalities due to domestic violence.

(3) The members of the commission, not to exceed 18, are appointed by the attorney general from among the following disciplines:

(a) representatives from state departments that are involved in issues of domestic abuse;

(b) representatives of private organizations that are involved in issues of domestic abuse;

(c) medical and mental health care providers who are involved in issues of domestic abuse;

(d) representatives from law enforcement, the judiciary, and the state bar of Montana;

(e) representatives of Montana Indian tribes;

(f) other concerned citizens; and

(g) a member of the legislature who serves on either the house judiciary committee or the senate judiciary committee.

(4) The members shall serve without compensation by the commission but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503, and members who are full-time salaried officers or employees of this state or of any political subdivision of this state are entitled to their regular compensation. The provisions of 2-15-122 do not apply to the commission.

(5) The commission shall review closed domestic homicide cases selected by the attorney general to provide the commission with the best opportunity to fulfill its duties under this section.

(6) Upon written request from the commission, a person who possesses information or records that are necessary and relevant to a domestic violence fatality review shall, as soon as practicable, provide the commission with the information and records. A person who provides information or records upon request of the commission is not criminally or civilly liable for providing information or records in compliance with this section.

(7) The meetings and proceedings of the commission are confidential and are exempt from the provisions of Title 2, chapter 3.

(8) The records of the commission are confidential and are exempt from the provisions of Title 2, chapter 6 protected from disclosure under [section 3]. The records are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action unless the records are reviewed by a district court judge and ordered to be provided to the person seeking access. The commission shall disclose conclusions and recommendations

upon request but may not disclose information, records, or data that are otherwise confidential. The commission may not use the information, records, or data for purposes other than those designated by subsections (2)(a) and (2)(c).

(9) The commission may require any person appearing before it to sign a confidentiality agreement created by the commission in order to maintain the confidentiality of the proceedings. In addition, the commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(10) A member of the commission who knowingly uses information obtained pursuant to subsection (6) for a purpose not authorized in subsection (2) or who discloses information in violation of subsection (8) is subject to a civil penalty of not more than \$500.

(11) The commission shall report its findings and recommendations in writing to the law and justice interim committee, the attorney general, the governor, and the chief justice of the Montana supreme court prior to each regular legislative session. The report must be made available to the public through the office of the attorney general. The commission may issue data or other information periodically, in addition to the biennial report."

Section 33. Section 5-11-203, MCA, is amended to read:

"5-11-203. Distribution of session laws -- ~~inspection~~ examination of journals. (1) Immediately after the session laws are published, the legislative services division shall distribute them.

(2) The legislative services division shall make the house and senate journals available for ~~inspection~~ examination or copying by the public as provided in ~~Title 2, chapter 6, part 1~~ sections 1 through 12. The legislative services division may publish the journals in an electronic format.

(3) The following entities may receive the number of copies of session laws listed at no cost:

(a) to the library of congress, eight copies;

(b) to the state library, two copies;

(c) to the state historical library, two copies;

(d) to the state law librarian, four copies for the use of the library and additional copies as may be required for exchange with libraries and institutions maintained by other states and territories and public libraries;

(e) to the library of each custodial institution, one copy;

(f) to each Montana member of congress, each United States district judge in Montana, each of the

judges of the state supreme and district courts, and each of the state officers as defined in 2-2-102, one copy;

(g) to any agency, board, commission, or office of the state, other than a state officer, and to any other subdivision of the state upon request and approval by the legislative council, one copy;

(h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house of representatives from the session at which the laws were adopted, one copy;

(i) to each of the community college districts of the state, as defined in 20-15-101, and each unit of the Montana university system, one copy;

(j) to each county clerk, one copy for the use of the county; and

(k) to each county attorney and to each clerk of a district court, one copy."

Section 34. Section 7-4-2614, MCA, is amended to read:

"7-4-2614. Records of certificates of discharge from military service. (1) It is the duty of the county clerk of any county of this state to record, without charge and in a book kept for that purpose, the certificate of discharge of an honorably discharged person who served with the United States forces upon that person's request. It is not the clerk's duty to file the certificate.

(2) A record of a military discharge certificate is confidential and ~~exempt from the provisions of Title 2, chapter 6~~ is protected from disclosure under [section 3]. A military discharge certificate may be disclosed only to:

(a) the service member for whom the certificate was recorded;

(b) if the service member is deceased, the next of kin of the service member or a mortuary, as defined in 10-2-111, for the purposes of securing the burial benefits to which the service member is entitled;

(c) a veterans' service officer or a veterans' service organization, as defined in 10-2-111;

(d) the veterans' affairs division of the Montana department of military affairs; or

(e) any person with written authorization from the service member or from the next of kin of the service member, if the service member is deceased.

(3) If an original discharge certificate was inadvertently filed and the county clerk still retains the certificate in its original form, upon the written request of the service member or of the service member's next of kin if the service member is deceased, the clerk shall return the filed certificate to the service member or to the service member's next of kin if the service member is deceased.

(4) For purposes of this section:

1 (a) "file" means to store in original form; and

2 (b) "record" means to make and keep a copy from which a certified original copy can be reproduced."

3
4 **Section 35.** Section 7-5-2132, MCA, is amended to read:

5 **"7-5-2132. Destruction of county records.** Upon the order of the board of county commissioners and
6 with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~
7 [section 23], a county officer may destroy records that have met the retention period, as contained in the local
8 government records retention and disposition schedules, and that are no longer needed by the office."

9
10 **Section 36.** Section 7-5-4124, MCA, is amended to read:

11 **"7-5-4124. Destruction of municipal records.** Upon the order of the city or town council or commission
12 and with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~
13 [section 23], a city or town officer may destroy records that have met the retention period, as contained in the local
14 government records retention and disposition schedules, and that are no longer needed by the office."

15
16 **Section 37.** Section 7-11-1007, MCA, is amended to read:

17 **"7-11-1007. Public hearing -- resolution of intention to create special district.** (1) The governing
18 body shall hold at least one public hearing concerning the creation of a proposed special district prior to the
19 passage of a resolution of intention to create the special district. A resolution of intention to create a special
20 district may be based upon a decision of the governing body as provided in 7-11-1003(1)(a) or upon a petition
21 that contains the required number of signatures as provided in 7-11-1003(1)(b).

22 (2) The resolution must designate:

23 (a) the proposed name of the special district;

24 (b) the necessity for the proposed special district;

25 (c) a general description of the territory or lands to be included within the proposed special district, giving
26 the boundaries of the proposed special district;

27 (d) the general character of any proposed improvements and the proposed location for the proposed
28 program or improvements;

29 (e) the estimated cost and method of financing the proposed program or improvements;

30 (f) any requirements specifically applicable to the type of special district;

(g) whether the proposed special district would be administered by the governing body or an appointed or elected board; and

(h) the duration of the proposed special district.

(3) (a) The governing body shall publish notice of passage of the resolution of intention to create a special district as provided in 7-1-2121 and 7-1-2122 or 7-1-4127 and 7-1-4129, as applicable. The notice must contain a notice of a hearing and the time and place where the hearing will be held.

(b) At the same time that notice is published pursuant to subsection (3)(a), the governing body shall provide a list of those properties subject to potential assessment, fees, or taxation under the creation of the proposed special district. The list may not be distributed or sold for use as a ~~mailing~~ distribution list in accordance with ~~2-6-109~~ [section 11].

(c) A copy of the notice described in subsection (3)(a) must be mailed to each owner or purchaser under contract for deed of the property included on the list referred to in subsection (3)(b) as shown by the current property tax record maintained by the department of revenue for the county."

Section 38. Section 13-1-303, MCA, is amended to read:

"13-1-303. Disposition of ballots and other election materials. (1) (a) Except for a federal election and as provided in 13-15-301(2), the voted ballots, detached stubs, unvoted ballots, and unused ballots from an election must be kept in the unopened packages received from the election judges for a period of 12 months. The packages may be opened only when an order for opening is given by the proper official either for a recount procedure or to process provisional ballots.

(b) The voted ballots, detached stubs, unvoted ballots, and unused ballots from a federal election must be retained in the unopened packages received from the election judges for a period of 22 months. The packages may be opened only as provided in subsection (1)(a) or for a postelection random-sample audit of vote-counting machines.

(c) An election administrator may dispose of the ballots as provided in subsection (2) if after the time periods provided for in this subsection (1), there is no:

(i) contest begun;

(ii) recount pending; or

(iii) appeal of a decision relating to a contest, a recount, or a postelection random-sample audit.

(2) Each election administrator shall prepare a plan for retention and destruction of election records in

1 the county according to the retention schedules established by the local government records committee provided
2 for in ~~2-6-402~~ [section 22]."

3
4 **Section 39.** Section 13-21-228, MCA, is amended to read:

5 **"13-21-228. Use of voter's e-mail address.** (1) A local election official shall request an e-mail address
6 from each covered voter who registers to vote after January 1, 2014.

7 (2) An e-mail address provided by a covered voter may not be made available to the public or any
8 individual or organization other than a state or local election official and is exempt from disclosure under ~~Title 2,~~
9 ~~chapter 6~~ [section 3].

10 (3) The address may be used only for official communication with the voter about the voting process,
11 including transmitting military-overseas ballots and election materials if the voter has requested electronic
12 transmission and verifying the voter's mailing address and physical location."

13
14 **Section 40.** Section 15-1-103, MCA, is amended to read:

15 **"15-1-103. Disposal of tax records -- procedure.** (1) Notwithstanding any other provisions of law, the
16 department may dispose of tax records more than 3 years old if the records do not have any further value or as
17 provided in subsection (3).

18 (2) Authorization for disposal of tax records must be made by the director of the department or authorized
19 employees of the department. A copy of the authorization and authenticated list of the records must be
20 maintained by the department.

21 (3) The department may dispose of its original tax records after those records have been reproduced
22 in accordance with rules adopted by the secretary of state in consultation with the state records committee
23 provided for in ~~2-6-208~~ [section 15]. The department shall maintain the reproduction as the public record. The
24 reproduction or certified copy of the reproduction may be used in place of the department's original in any court
25 or proceeding and has the same force and effect as the department's original record."

26
27 **Section 41.** Section 15-1-521, MCA, is amended to read:

28 **"15-1-521. Property valuation improvement fund.** There is an account in the state special revenue
29 fund to be used by the department for increasing the efficiency of the property appraisal, assessment, and
30 taxation process through improvements in technology and administration. The department shall deposit fees

1 collected pursuant to ~~2-6-110(3)~~ [section 5] in the account."

2
3 **Section 42.** Section 15-62-209, MCA, is amended to read:

4 **"15-62-209. Access to records.** Information that identifies the contributor, account owner, or designated
5 beneficiary of a family education savings account is exempt from the provisions of ~~2-6-102 and 2-6-104~~ [section
6 3] and any other provision of law permitting the public ~~inspection examination~~ or copying of documents. The
7 provisions of this section may not prevent the release of information about a specific designated beneficiary to
8 a higher education institution at which the designated beneficiary is enrolled or to which the designated
9 beneficiary has applied for admission."

10
11 **Section 43.** Section 17-8-403, MCA, is amended to read:

12 **"17-8-403. False claims -- procedures -- penalties.** (1) Except as provided in subsection (2), a person
13 is liable to a governmental entity for a civil penalty of not less than \$5,500 and not more than \$11,000 for each
14 act specified in this section, plus three times the amount of damages that a governmental entity sustains, along
15 with expenses, costs, and attorney fees, if the person:

16 (a) knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;

17 (b) knowingly makes, uses, or causes to be made or used a false record or statement material to a false
18 or fraudulent claim;

19 (c) conspires to commit a violation of this subsection (1);

20 (d) has possession, custody, or control of public property or money used or to be used by the
21 governmental entity and knowingly delivers or causes to be delivered less than all of the property or money;

22 (e) is authorized to make or deliver a document certifying receipt of property used or to be used by the
23 governmental entity and, with the intent to defraud the governmental entity or to willfully conceal the property,
24 makes or delivers a receipt without completely knowing that the information on the receipt is true;

25 (f) knowingly buys or receives as a pledge of an obligation or debt public property of the governmental
26 entity from any person who may not lawfully sell or pledge the property;

27 (g) knowingly makes, uses, or causes to be made or used a false record or statement material to an
28 obligation to pay or transmit money or property to a governmental entity or knowingly conceals or knowingly and
29 improperly avoids or decreases an obligation to pay or transmit money or property to a governmental entity; or

30 (h) as a beneficiary of an inadvertent submission of a false or fraudulent claim to the governmental entity,

1 subsequently discovers the falsity of the claim or that the claim is fraudulent and fails to disclose the false or
2 fraudulent claim to the governmental entity within a reasonable time after discovery of the false or fraudulent
3 claim.

4 (2) In a civil action brought under 17-8-405 or 17-8-406, a court shall assess a civil penalty of not less
5 than \$5,500 and not more than \$11,000 for each act specified in this section, plus not less than two times and
6 not more than three times the amount of damages that a governmental entity sustains if the court finds all of the
7 following:

8 (a) The person committing the act furnished the government attorney with all information known to that
9 person about the act within 30 days after the date on which the person first obtained the information.

10 (b) The person fully cooperated with any investigation of the act by the government attorney.

11 (c) At the time that the person furnished the government attorney with information about the act, a
12 criminal prosecution, civil action, or administrative action had not been commenced with respect to the act and
13 the person did not have actual knowledge of the existence of an investigation into the act.

14 (3) A person who violates the provisions of this section is also liable to the governmental entity for the
15 expenses, costs, and attorney fees of the civil action brought to recover the penalty or damages.

16 (4) Liability under this section is joint and several for any act committed by two or more persons.

17 (5) This section does not apply to claims, records, or statements made in relation to claims filed with the
18 state compensation insurance fund under Title 39, chapter 71, or to claims, records, payments, or statements
19 made under the tax laws contained in Title 15 or 16 or made to the department of natural resources and
20 conservation under Title 77.

21 (6) (a) A court shall dismiss an action or claim brought under 17-8-406, unless opposed by the
22 governmental entity or unless the action is brought by the government attorney or the person who is the original
23 source of the information, if substantially the same allegations or transactions alleged in the action or claim were
24 publicly disclosed in:

25 (i) a criminal, civil, or administrative hearing in which the governmental entity or an agent of the
26 governmental entity is a party;

27 (ii) a state legislative, state auditor, or other governmental entity report, hearing, audit, or investigation;
28 or

29 (iii) the news media.

30 (b) The production of a record pursuant to Article II, section 9, of the Montana constitution or Title 2,

chapter 6, section 3 is not a public disclosure for purposes of this section.

(c) For purposes of this subsection (6), "original source" means an individual who:

(i) prior to a public disclosure, voluntarily disclosed to the governmental entity the information on which the allegations or transactions in a claim are based; or

(ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations and transactions and voluntarily provided the information to the governmental entity before filing an action.

(7) A person may not file a complaint or civil action brought under 17-8-406 against the state or an officer or employee of the state arising from conduct by the officer or employee within the scope of the officer's or employee's duties to the state unless the officer or employee has a financial interest in the conduct upon which the complaint or civil action arises.

(8) The amount of the civil penalty set forth in subsections (1) and (2) must be adjusted for inflation in a manner consistent with the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410.

(9) If a governmental entity does not intervene, the person who initiated the action has the same right to conduct the action as the government attorney would have had if the governmental entity had intervened, including the right to inspect government records and interview officers and employees of the governmental entity."

Section 44. Section 18-4-126, MCA, is amended to read:

"18-4-126. Public access to procurement information -- records -- retention. (1) Procurement information is a public writing record and must be available to the public as provided in ~~2-6-102~~ section 3, 18-4-303, and 18-4-304.

(2) All procurement records must be retained, managed, and disposed of in accordance with ~~the state records management program, Title 2, chapter 6~~ the provisions of [sections 1 through 21].

(3) Written determinations required by this chapter must be retained in the appropriate official contract file of the department or the purchasing agency administering the procurement in accordance with ~~the state records management program~~ [sections 1 through 21]."

Section 45. Section 19-2-403, MCA, is amended to read:

"19-2-403. Powers and duties of board. (1) The board shall administer the provisions of the chapters enumerated in 19-2-302.

1 (2) The board may establish rules that it considers proper for the administration and operation of the
2 retirement systems and enforcement of the chapters under which each retirement system is established.

3 (3) The board shall establish uniform rules that are necessary to determine service credit for fractional
4 years of service.

5 (4) The board shall determine who are employees within the meaning of each retirement system. The
6 board is the sole authority for determining the conditions under which persons may become members of and
7 receive benefits under the retirement systems. A person whose job duties require proportional membership in
8 more than one retirement system is subject to the provisions of those systems.

9 (5) If fraud or error results in an employee or member being reported to the incorrect retirement system,
10 the board shall correct the error and adjust contributions as necessary.

11 (6) The board shall determine and may modify retirement benefits under the retirement systems. Benefits
12 may be paid only if the board decides, in its discretion, that the applicant is, under the provisions of the
13 appropriate retirement system, entitled to the benefits.

14 (7) In matters of board discretion under the systems, the board shall treat all persons in similar
15 circumstances in a uniform and nondiscriminatory manner.

16 (8) The board shall maintain records and accounts it determines necessary for the administration of the
17 retirement systems.

18 (9) The board shall enter into memoranda of understanding with the teachers' retirement system to
19 exchange retirement system-related confidential information regarding members, former members, or retirees.
20 A memorandum must state that:

21 (a) the information may be used only for reasons related to verifying appropriate pension plan
22 participation; and

23 (b) the requesting retirement system agrees to protect the confidentiality of the information and will
24 disclose the requested information only as necessary to conduct official business.

25 (10) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt actuarial
26 rates and rates of regular interest it determines appropriate for the administration of the retirement systems.

27 (11) The board shall review the sufficiency of benefits paid by the retirement system or plan and
28 recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under the
29 defined contribution plan that may be necessary for members and their beneficiaries to maintain a stable standard
30 of living.

(12) The board may implement third-party mailings under the provisions of ~~2-6-109~~ [section 11]. If third-party mailings are implemented, the board shall adopt rules governing means of implementation, including the specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees generated by third-party mailings must be deposited in the appropriate retirement system fund for the benefit of participants of retirement systems or plans administered by the board.

(13) In discharging duties, the board, a member of the board, or an authorized representative of the board may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(14) The board may by rule or otherwise delegate to the board's executive director or any other staff member any of the powers or duties conferred by law upon the board except as otherwise provided by law and except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection (13) or the contested case procedure of the Montana Administrative Procedure Act.

(15) The board shall perform other duties and may exercise the powers concerning the defined contribution plan for plan members as provided in chapter 3, part 21, of this title."

Section 46. Section 19-17-111, MCA, is amended to read:

"19-17-111. Records information management. (1) The chief or designated official of a fire company shall maintain the records provided for in 19-17-108 and 19-17-110 for each active or inactive member of the fire company.

(2) Records must be maintained according to the state of Montana general records retention schedules, as published by the secretary of state pursuant to ~~Title 2, chapter 6~~ [sections 13 through 21]."

Section 47. Section 22-1-211, MCA, is amended to read:

"22-1-211. Definitions. As used in this part, the following definitions apply:

(1) "Depository library" means a library contracted by the state library under 22-1-212(2) to provide the general public access to state publications.

(2) "State agency" means any entity established or authorized by law to govern operations of the state, such as a state office, officer, department, division, section, bureau, board, commission, council, and agency of

1 the state and all subdivisions of each.

2 (3) (a) "State publication" means any information originating in or produced by the authority of a state
3 agency or at the total or partial expense of a state agency that the agency intends to distribute outside the
4 agency, regardless of format or medium, source or copyright, license, or trademark.

5 (b) The term does not include information intended only for distribution to contractors or grantees of the
6 agency, persons within the agency, or members of the public under ~~2-6-102~~ [section 3] or information produced
7 by a state agency that is intended strictly for internal administrative or operational purposes."
8

9 **Section 48.** Section 30-9a-522, MCA, is amended to read:

10 **"30-9A-522. Maintenance and destruction of records.** (1) Subject to the requirements of ~~Title 2,~~
11 ~~chapter 6, part 2~~ [sections 13 through 21], the filing office shall maintain a record of the information provided in
12 a filed financing statement for at least 1 year after the effectiveness of the filed financing statement has lapsed
13 under 30-9A-515 with respect to all secured parties of record. The record must be retrievable by using the name
14 of the debtor and:

15 (a) if the record was filed or recorded in the filing office described in 30-9A-501(1)(a), by using the file
16 number assigned to the initial financing statement to which the record relates and the date and time that the
17 record was filed or recorded; or

18 (b) if the record was filed or recorded in the filing office described in 30-9A-501(1)(b), by using the date
19 and time file number assigned to the initial financing statement to which the record relates.

20 (2) Except to the extent that a statute governing disposition of public records provides otherwise, the
21 filing office may immediately destroy any written record evidencing a financing statement. However, if the filing
22 office destroys a written record, it shall maintain another record of the financing statement that complies with
23 subsection (1)."
24

25 **Section 49.** Section 30-14-1603, MCA, is amended to read:

26 **"30-14-1603. Department to provide for no-call list database -- rules -- inclusion of national**
27 **database -- database not public record -- no cost to subscribers.** (1) The department shall provide for the
28 operation of a database containing a list of names and telephone numbers of residential subscribers who object
29 to receiving telephone solicitations. A residential subscriber may be listed in the database without cost to the
30 subscriber.

(2) The department shall promulgate rules and regulations governing the state no-call database that are necessary and appropriate to fully implement the provisions of this part. The rules must include but are not limited to rules specifying:

(a) the methods by which each residential subscriber may give notice to the department or a contractor designated by the department of the residential subscriber's objection to receiving telephone solicitations or the methods by which the residential subscriber may revoke the notice;

(b) the length of time for which a notice of objection is effective and the effect of a change of telephone number on the notice;

(c) the methods by which pertinent information may be collected and added to the no-call database;

(d) the methods for obtaining access to the no-call database by any person or entity desiring to make telephone solicitations if that person or entity is required to avoid calling the residential subscribers included in the no-call database;

(e) the cost to be assessed to a person or entity that is required to obtain access to the no-call database; and

(f) other matters relating to the no-call database that the department considers desirable.

(3) If the federal communications commission establishes a single national database of telephone numbers of residential subscribers who object to receiving telephone solicitations pursuant to 47 U.S.C. 227(c)(3), the department shall include that part of the single national database that relates to Montana in the no-call database established pursuant to this section.

(4) Information contained in the no-call database established pursuant to this section may be used only for the purpose of compliance with 30-14-1602 and this section or in a proceeding or action pursuant to 30-14-1605. The information may not be considered a public record pursuant to Title 2, chapter 6 and is protected from disclosure under [section 3].

(5) In April, July, October, and January of each year, the department shall make a reasonable attempt to obtain subscription listings of residential subscribers in this state who have arranged to be included on any national no-call list and add those names to the state no-call list."

Section 50. Section 30-17-101, MCA, is amended to read:

"30-17-101. Electronic directory of Montana products. (1) (a) The department of commerce shall provide an electronic directory on the internet ~~or world wide web~~ of Montana businesses that market products

1 qualifying as made in Montana or grown in Montana, as described in subsection (5).

2 (b) The department may make a decision on the appropriateness of listing a business on the electronic
3 directory based upon the content or use of the products offered by the business.

4 (2) (a) The electronic directory may be compiled from eligible businesses that have contacted the
5 department of commerce and that have agreed to be listed electronically on the internet ~~or world wide web.~~
6 Agreement by a company also means that the company grants permission for inclusion on a mailing distribution
7 list pursuant to ~~2-6-109(1)~~ [section 11(1)].

8 (b) The department of commerce is not responsible for listing a company if that company has not
9 contacted the department, has not agreed to a listing pursuant to subsection (2), or does not qualify as having
10 products made in Montana or grown in Montana.

11 (3) The electronic directory may contain information allowing a potential customer to access directly a
12 business listed in the directory by telephone, mail, or electronic links if the business works with the department
13 of commerce to facilitate and maintain direct access.

14 (4) The department of commerce may not process orders for a business listed in the electronic directory
15 and is not responsible for handling customer questions or complaints on behalf of a business listed in the
16 electronic directory.

17 (5) For the purposes of this section, a product is considered made in Montana or grown in Montana if
18 the product has 50% or greater value-added within the state.

19 (6) For the purposes of this section, "value-added" means a finished product that has been created,
20 made, produced, or enhanced in Montana by Montana residents resulting in a 50% or greater value-added
21 product."

22
23 **Section 51.** Section 32-11-107, MCA, is amended to read:

24 **"32-11-107. Confidentiality.** (1) The director and other employees of the department may not disclose
25 information acquired by them in the discharge of their duties under this chapter except to the extent that
26 disclosure of the information is required by law, other than the public records provisions of ~~Title 2, chapter 6,~~
27 [section 3], or is required by court order.

28 (2) Notwithstanding subsection (1), the department may disclose information that is confidential under
29 subsection (1) if the department determines that disclosure of the information is necessary to promote the public
30 interest. This subsection does not authorize the disclosure of information acquired by the department in the

1 course of an examination of a licensee.

2 (3) A BIDCO may provide to a current or prospective creditor or shareholder of the BIDCO a copy of an
3 examination report on the BIDCO made by the department under this chapter."

4
5 **Section 52.** Section 33-1-1403, MCA, is amended to read:

6 **"33-1-1403. Confidentiality.** (1) The statement of actuarial opinion must be provided with the annual
7 statement in accordance with the appropriate NAIC property and casualty annual statement instructions and is
8 a public writing, record within the meaning of ~~2-6-101~~ [section 2].

9 (2) (a) Actuarial reports, work papers, and actuarial opinion summaries retained by the commissioner
10 are trade secrets and are privileged. The materials must be given confidential treatment, are not subject to
11 subpoena, and are not subject to discovery, and the materials are not admissible in evidence in any private civil
12 litigation.

13 (b) Subsection (2)(a) does not limit the commissioner's authority to release the documents to the
14 actuarial board for counseling and discipline if the material is required for the board's professional disciplinary
15 proceedings and if the board establishes procedures satisfactory to the commissioner to preserve the
16 confidentiality of the documents.

17 (3) This section does not limit the commissioner's authority to use the actuarial reports, work papers,
18 actuarial opinion summaries, or other information in furtherance of any regulatory or legal action brought as part
19 of the commissioner's official duties.

20 (4) The commissioner and any person who receives actuarial reports, work papers, actuarial opinion
21 summaries, or other information while acting under the authority of the commissioner may not testify in any private
22 civil action concerning the documents or information subject to the provisions of subsection (2).

23 (5) To assist in the performance of the commissioner's duties, the commissioner may provide and
24 receive documents and information pursuant to 33-1-311.

25 (6) A waiver of privilege or claim of confidentiality in the actuarial reports, work papers, or actuarial
26 opinion summaries does not result from disclosure to the commissioner under this section or result from the
27 exchange of documents and information authorized in subsections (2)(b) and (5)."

28
29 **Section 53.** Section 33-28-108, MCA, is amended to read:

30 **"33-28-108. Examinations and investigations.** (1) (a) The commissioner or some competent person

1 appointed by the commissioner shall examine the affairs, transactions, accounts, records, and assets of each
2 captive insurance company as often as the commissioner considers advisable but no less frequently than every
3 5 years.

4 (b) The expenses and charges of the examination must be paid to the commissioner by the company
5 or companies examined.

6 (2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

7 (3) Except as provided in subsection (4), all examination reports, preliminary examination reports or
8 results, working papers, recorded information, documents, and their copies produced by, obtained by, or
9 disclosed to the commissioner or any other person in the course of an examination made under this section are
10 confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or
11 agent of the commissioner without the written consent of the company or upon court order.

12 (4) (a) Subsection (3) does not prevent the commissioner from using information obtained pursuant to
13 this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in
14 the commissioner's discretion, grant access to information obtained pursuant to this section to public officers
15 having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers
16 of this state or any other state or agency of the federal government at any time, as long as the officers receiving
17 the information agree in writing to hold it in a manner consistent with this section.

18 (b) Captive risk retention group reports produced pursuant to the examination requirements of this
19 section are public writings records as defined in ~~2-6-101~~ section 2.

20 (5) Except as provided in subsection (6), the provisions of this section apply to all business written by
21 a captive insurance company.

22 (6) The examination for a branch captive insurance company may only be of branch business and
23 branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107(2)(d) to
24 the satisfaction of the commissioner.

25 (7) As a condition of licensure of a branch captive insurance company, the foreign captive insurance
26 company shall grant authority to the commissioner for examination of the affairs of the foreign captive insurance
27 company in the jurisdiction in which the foreign captive insurance company is formed."
28

29 **Section 54.** Section 46-23-110, MCA, is amended to read:

30 **"46-23-110. Records -- dissemination.** (1) The department and the board shall keep a record of the

board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as provided in ~~2-6-102~~ [section 3] and this section.

(2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

(3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board staff member shall review the file requested and determine whether any document in the file is subject to a personal privacy or safety interest that clearly exceeds the merits of public disclosure.

(4) The board may assert the privacy or safety interest and may withhold a document if the board determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the document's contents would compromise the safety, order, or security of a facility or the safety of facility personnel, a member of the public, or an inmate of the facility if disclosed.

(5) The board may not withhold from public scrutiny under subsections (2) through (4) any more information than is required to protect an individual privacy interest or a safety interest.

(6) The board may charge a reasonable fee for copying and inspecting records.

(7) The board may limit the time and place that the records may be inspected or copied."

Section 55. Section 53-21-1108, MCA, is amended to read:

"53-21-1108. (Temporary) Disclosure of information -- confidentiality. (1) The department shall provide the Montana suicide review team with a copy of each death certificate filed with the state that lists suicide as the cause of death. The department may not charge a fee for providing the death certificate.

(2) The suicide review team may request and may receive information from:

(a) a county coroner;

(b) the state medical examiner provided for in 44-3-201;

(c) an appropriate tribal official as designated by a tribe; and

(d) a health care provider as permitted in Title 50, chapter 16, part 5 or 8, or applicable federal law.

(3) Upon request of the suicide review team, a health care provider may disclose information about a patient without the patient's authorization or without the authorization of the representative of a patient who is deceased.

(4) The suicide review team shall maintain the confidentiality of the information received pursuant to

1 53-21-1105 through 53-21-1110.

2 (5) Materials and information obtained by the suicide review team are not subject to subpoena ~~or to the~~
3 ~~requirements related to public records under Title 2, chapter 6~~ and are protected from disclosure under [section
4 3]. (Terminates June 30, 2016--sec. 16, ch. 353, L. 2013.)"

5

6 **Section 56.** Section 61-6-157, MCA, is amended to read:

7 **"61-6-157. Creation of online motor vehicle liability insurance verification system.** (1) The
8 department, in cooperation with the commissioner of insurance, shall establish an accessible common
9 carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or
10 operator with motor vehicle liability policy requirements under 61-6-103, 61-6-301, and 61-6-302 and facilitate
11 or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134.

12 (2) The department may contract with a private vendor or vendors to establish and maintain the system.

13 (3) The system must:

14 (a) send requests to insurers for verification of motor vehicle liability insurance using electronic services
15 established by the insurers, through the internet, world wide web, or a similar proprietary or common carrier
16 electronic system in compliance with the specifications and standards of the insurance industry committee on
17 motor vehicle administration and other applicable industry standards;

18 (b) include appropriate provisions to secure its data against unauthorized access and to maintain a
19 record of all requests and responses;

20 (c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement
21 personnel, county treasurers, and authorized agents under the provisions of 61-3-116;

22 (d) interface, wherever possible, with existing department and law enforcement systems;

23 (e) receive insurance data file transfers from insurers under specifications and standards set forth in
24 subsection (3)(a) to identify vehicles that are not covered by an insurance policy;

25 (f) provide a means by which low-volume insurers that are unable to deploy an online interface with the
26 system can report insurance policy data to the department or its designee for inclusion in the system;

27 (g) provide a means to track separately or distinguish motor vehicles that are subject to a certificate of
28 self-insurance under 61-6-143, a surety or indemnity bond under 61-6-137 or 61-6-301, or a deposit of cash or
29 securities under 61-6-138;

30 (h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled

1 maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed
2 by the department; and

3 (i) be used only for information-gathering and educational purposes until the completion of an appropriate
4 testing period of not less than 6 months.

5 (4) The provisions of ~~Title 2, chapter 6, parts 1 and 2, [sections 1 through 20]~~ do not apply to the
6 information contained in the verification system.

7 (5) Every insurer shall cooperate with the department in establishing and maintaining the system and
8 shall provide access to motor vehicle liability policy status information to verify liability coverage:

9 (a) for a vehicle insured by that company that is registered in this state; and

10 (b) if available, for a vehicle that is insured by that company or that is operated in this state and that is
11 the subject of an accident investigation regardless of where the vehicle is registered."

12
13 **Section 57.** Section 61-11-510, MCA, is amended to read:

14 **"61-11-510. Prerequisites to disclosure.** (1) Prior to the disclosure of personal information or highly
15 restricted personal information, as provided in 61-11-507, 61-11-508, or 61-11-509, the department shall require
16 the requester to complete and submit an application, in a form prescribed by the department, identifying the
17 requester and specifying the statutorily recognized uses for which the personal information or highly restricted
18 personal information is being sought.

19 (2) The department shall require the requester to provide identification acceptable to the department.

20 (3) (a) The department shall collect the appropriate fees paid by the requester and shall determine the
21 amount of the fees in accordance with 61-3-101, 61-11-105, and this subsection (3), and as appropriate, in
22 accordance with the terms of a contract between the department and the requester.

23 (b) The department shall ensure that fees established by policy or contract:

24 (i) recover the department's cost and expenses as provided in ~~2-6-110(2)~~ [section 4] and 61-3-101;

25 (ii) include an additional amount necessary to compensate the department for costs associated with
26 developing and maintaining the database from which information is requested; and

27 (iii) incorporate, when applicable, the convenience fee established under 2-17-1103.

28 (c) Except as provided in 61-11-105(5)(b) and subsection (3)(d) of this section, the department shall
29 charge a fee to any person, including a representative of a federal, state, or local government entity or member
30 of the news media who requests information under this section.

(d) The department may not charge a fee for information requested by the governor's office of budget and program planning, the state tax appeal board, any legislative branch agency or committee, or any criminal justice agency, as defined in 44-5-103."

Section 58. Section 81-2-115, MCA, is amended to read:

"81-2-115. Confidentiality of information collected -- exceptions. (1) Except as provided in subsections (2) through (4), all information regarding the testing of any livestock that is owned by or in the possession or custody of a livestock producer, livestock dealer as defined in 81-8-213, or livestock market as defined in 81-8-213 that is collected by the department:

(a) must be held confidential by the department and its employees;

(b) is not a public writing as described in 2-6-101 and is exempt from the public disclosure provisions of Title 2, chapter 6 record or public information as defined in [section 2] and is exempt from disclosure under [section 3]; and

(c) is not subject to discovery or introduction into evidence in any civil action.

(2) For the purposes of this section, "livestock" has the meaning provided in 81-2-702.

(3) The administrator, appointed pursuant to 81-1-301, may disclose information collected by the department from individual livestock producers, livestock dealers, or livestock markets for the purposes of the department's animal health programs whenever in the administrator's judgment the disclosure will assist in the implementation of the animal health programs. The administrator may disclose the information to another governmental entity pursuant to the conditions described in subsection (4) or if the governmental entity confirms in writing that the entity will maintain the confidentiality of the information.

(4) Animal disease diagnostic tests that identify the owner of the animal tested may not be disclosed unless:

(a) the administrator determines that disclosure is necessary to prevent the spread of an animal disease or to protect the public health;

(b) the owner gives written permission to disclose the information;

(c) the information is disclosed in actions or administrative proceedings commenced under the provisions of Title 81, chapter 2, 4, 5, 6, 8, 9, or 30;

(d) disclosure is required by subpoena or court order; or

(e) the information is disclosed to a law enforcement agency in connection with the investigation or

1 prosecution of criminal offenses.

2 (5) Upon release by the administrator or the board of any information to any other governmental entity
3 or to any person, the administrator shall:

4 (a) notify the person to whom the information refers or pertains that the release has been made and the
5 name of the governmental entity or person to whom the information was released; and

6 (b) provide to the person to whom the information refers a copy or summary of the information contained
7 in the release."

8
9 **NEW SECTION. Section 59. Repealer.** The following sections of the Montana Code Annotated are
10 repealed:

11 2-6-101. Definitions.

12 2-6-102. Citizens entitled to inspect and copy public writings.

13 2-6-103. Filing and copying fees.

14 2-6-104. Records of officers open to public inspection.

15 2-6-105. Removal of public records.

16 2-6-106. Possession of records.

17 2-6-107. Proceedings to compel delivery of records.

18 2-6-108. Attachment and warrant to enforce.

19 2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.

20 2-6-110. Electronic information and nonprint records -- public access -- fees.

21 2-6-111. Custody and reproduction of records by secretary of state.

22 2-6-112. Concealment of public hazards prohibited -- concealment of information related to settlement or
23 resolution of civil suits prohibited.

24 2-6-201. Purpose.

25 2-6-202. Definitions.

26 2-6-203. Secretary of state's powers and duties -- rulemaking authority.

27 2-6-204. State records committee approval.

28 2-6-205. Preservation of public records.

29 2-6-206. Protection and storage of essential records.

30 2-6-207. Certified copies of public records.

- 1 2-6-208. Records committee -- composition and meetings.
- 2 2-6-211. Transfer and storage of public records.
- 3 2-6-212. Disposal of public records.
- 4 2-6-213. Agency responsibilities and transfer schedules.
- 5 2-6-214. Department of administration -- powers and duties.
- 6 2-6-301. Definitions.
- 7 2-6-302. Official records management -- powers and duties.
- 8 2-6-303. Ownership of records -- transfer.
- 9 2-6-304. Outgoing officials -- records management duties.
- 10 2-6-307. Certified copies of official records.
- 11 2-6-401. Definitions.
- 12 2-6-402. Local government records committee -- creation.
- 13 2-6-403. Duties and responsibilities.
- 14 2-6-404. Rulemaking authority.
- 15 2-6-405. Destruction of local government public records prohibited prior to offering -- central registry --
- 16 notification.
- 17 2-6-501. Definitions.
- 18 2-6-502. Protection of social security numbers -- compliance.
- 19 2-6-503. Extensions.
- 20 2-6-504. Notification of breach of security of data system.

21

22 NEW SECTION. Section 60. Codification instruction. (1) [Sections 1 through 27] are intended to be

23 codified as an integral part of Title 2, chapter 6, and the provisions of Title 2, chapter 6, apply to [sections 1

24 through 27].

25 (2) ~~[Sections 28 and 29] are [SECTION 28]~~ IS intended to be codified as an integral part of Title 2, chapter

26 15, part 4, and the provisions of Title 2, chapter 15, part 4, apply to ~~[sections 28 and 29]~~ [SECTION 28].

27

28 NEW SECTION. SECTION 61. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE

29 SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS

30 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID

1 APPLICATIONS.

2

- END -

1 HOUSE BILL NO. 123

2 INTRODUCED BY D. JONES

3 BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND REORGANIZING MONTANA PUBLIC

6 RECORDS LAWS; UPDATING DEFINITIONS AND PROVIDING NEW DEFINITIONS; CLARIFYING ACCESS

7 TO PUBLIC INFORMATION; PROVIDING ~~PRIVACY~~ SAFETY AND SECURITY EXCEPTIONS; PROVIDING A

8 PROCEDURE FOR PUBLIC INFORMATION REQUESTS; ALLOWING FEES FOR PUBLIC INFORMATION

9 REQUESTS; ALLOWING SPECIAL FEES FOR CERTAIN INFORMATION; EMPHASIZING THE DISPOSITION

10 OF PUBLIC RECORDS ACCORDING TO RETENTION SCHEDULES; UPDATING THE REQUIREMENTS FOR

11 ESSENTIAL RECORDS; CLARIFYING THE PROHIBITION ON DISSEMINATING DISTRIBUTION LISTS;

12 REVISING THE RECORDS MANAGEMENT DUTIES OF THE SECRETARY OF STATE; REQUIRING

13 COLLABORATION BETWEEN THE DEPARTMENT OF ADMINISTRATION AND THE SECRETARY OF STATE;

14 EXPANDING THE MEMBERSHIP AND DUTIES OF THE STATE RECORDS COMMITTEE; PROVIDING

15 POWERS AND DUTIES OF THE MONTANA HISTORICAL SOCIETY FOR MANAGING HISTORIC RECORDS

16 AND CONSTITUTIONAL OFFICER RECORDS; CLARIFYING AGENCY RESPONSIBILITIES FOR RECORDS

17 MANAGEMENT; REVISING MEMBERSHIP AND DUTIES OF THE LOCAL GOVERNMENT RECORDS

18 COMMITTEE; REDUCING THE NOTICE REQUIREMENTS BEFORE DESTRUCTION OF CERTAIN LOCAL

19 GOVERNMENT RECORDS; UPDATING PROTECTIONS OF PERSONAL INFORMATION; PROVIDING

20 RULEMAKING AUTHORITY; AMENDING SECTIONS 2-3-212, 2-3-221, 2-3-301, 2-15-2017, 5-11-203, 7-4-2614,

21 7-5-2132, 7-5-4124, 7-11-1007, 13-1-303, 13-21-228, 15-1-103, 15-1-521, 15-62-209, 17-8-403, 18-4-126,

22 19-2-403, 19-17-111, 22-1-211, 30-9A-522, 30-14-1603, 30-17-101, 32-11-107, 33-1-1403, 33-28-108,

23 46-23-110, 53-21-1108, 61-6-157, 61-11-510, AND 81-2-115, MCA; AND REPEALING SECTIONS 2-6-101,

24 2-6-102, 2-6-103, 2-6-104, 2-6-105, 2-6-106, 2-6-107, 2-6-108, 2-6-109, 2-6-110, 2-6-111, 2-6-112, 2-6-201,

25 2-6-202, 2-6-203, 2-6-204, 2-6-205, 2-6-206, 2-6-207, 2-6-208, 2-6-211, 2-6-212, 2-6-213, 2-6-214, 2-6-301,

26 2-6-302, 2-6-303, 2-6-304, 2-6-307, 2-6-401, 2-6-402, 2-6-403, 2-6-404, 2-6-405, 2-6-501, 2-6-502, 2-6-503, AND

27 2-6-504, MCA."

28

29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

30

1 NEW SECTION. Section 1. Purpose. The purpose of this chapter is to ensure efficient and effective
2 management of public records and public information, in accordance with Article II, sections 8 through 10, of the
3 Montana constitution, for the state of Montana and its political subdivisions.

4
5 NEW SECTION. Section 2. Definitions. As used in this chapter, the following definitions apply:

6 (1) "CONFIDENTIAL INFORMATION" MEANS INFORMATION THAT IS ACCORDED CONFIDENTIAL STATUS OR IS
7 PROHIBITED FROM DISCLOSURE AS PROVIDED BY APPLICABLE LAW. THE TERM INCLUDES INFORMATION THAT IS:

8 (A) CONSTITUTIONALLY PROTECTED FROM DISCLOSURE BECAUSE AN INDIVIDUAL PRIVACY INTEREST CLEARLY
9 EXCEEDS THE MERITS OF PUBLIC DISCLOSURE;

10 (B) RELATED TO JUDICIAL DELIBERATIONS IN ADVERSARIAL PROCEEDINGS;

11 (C) NECESSARY TO MAINTAIN THE SECURITY AND INTEGRITY OF SECURE FACILITIES OR INFORMATION SYSTEMS
12 OWNED BY OR SERVING THE STATE; AND

13 (D) DESIGNATED AS CONFIDENTIAL BY STATUTE OR THROUGH JUDICIAL DECISIONS, FINDINGS, OR ORDERS.

14 ~~(1)~~(2) "Constitutional officer" means the governor, lieutenant governor, attorney general, secretary of
15 state, superintendent of public instruction, or auditor, who are the constitutionally designated and elected officials
16 of the executive branch of government.

17 (3) "CONSTITUTIONAL OFFICER RECORD" MEANS A PUBLIC RECORD PREPARED, OWNED, USED, OR RETAINED BY
18 A CONSTITUTIONAL OFFICER.

19 ~~(2)~~(4) "Essential record" means a public record immediately necessary to:

20 (a) respond to an emergency or disaster;

21 (b) begin recovery or reestablishment of operations during and after an emergency or disaster;

22 (c) protect the health, safety, and property of Montana citizens; or

23 (d) protect the assets, obligations, rights, history, and resources of a public agency, its employees and
24 customers, and Montana citizens.

25 ~~(3)~~(5) "Executive branch agency" means a department, board, commission, office, bureau, or other public
26 authority of the executive branch of state government.

27 ~~(4)~~(6) "Historic record" means a public record found by the state archivist to have permanent
28 administrative or historic value to the state.

29 ~~(5)~~(7) "Local government" means a city, town, county, consolidated city-county, SPECIAL DISTRICT, or
30 school district or a subdivision of one of these entities.

~~(6)(8)~~ "Local government records committee" means the committee provided for in [section 22].

~~(7)(9)~~ "Permanent record" means a public record designated for long-term or permanent retention.

~~(8)(10)~~ "Public agency" means ~~any political subdivision, including a municipality, county, school district, LOCAL GOVERNMENT and any agency or department of the state of Montana~~ THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF MONTANA STATE GOVERNMENT, A POLITICAL SUBDIVISION OF THE STATE, A LOCAL GOVERNMENT, AND ANY AGENCY, DEPARTMENT, BOARD, COMMISSION, OFFICE, BUREAU, DIVISION, OR OTHER PUBLIC AUTHORITY OF THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCH OF THE STATE OF MONTANA.

~~(9)(11)~~ "Public information" means information, ~~regardless of physical form or characteristics, relating to the conduct of the public's business and prepared, owned, used, or retained by any public agency~~ PREPARED, OWNED, USED, OR RETAINED BY ANY PUBLIC AGENCY RELATING TO THE TRANSACTION OF OFFICIAL BUSINESS, REGARDLESS OF FORM, EXCEPT FOR CONFIDENTIAL INFORMATION THAT MUST BE PROTECTED AGAINST PUBLIC DISCLOSURE UNDER APPLICABLE LAW.

~~(10)(12)~~ "Public officer" means any person who has been elected or appointed as an officer of state or local government.

~~(11)(13)~~ "Public record" means public information that is:

(a) fixed in any medium and is retrievable in usable form for future reference; and

(b) designated for retention by the state records committee, judicial branch, legislative branch, or local government records committee.

~~(12)(14)~~ "Records manager" means an individual designated by a public agency to be responsible for coordinating the efficient and effective management of the agency's public records and information.

~~(13)(15)~~ "State records committee" means the state records committee provided for in [section 15].

NEW SECTION. Section 3. Access to public information -- ~~privacy SAFETY~~ and security exceptions
-- MONTANA HISTORICAL SOCIETY EXCEPTION. (1) Every ~~EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3), EVERY~~
 person has a right to examine and obtain a copy of any public information of this state, ~~except for information that is constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure or as otherwise expressly prohibited by statute.~~

(2) A public officer may withhold from public scrutiny information relating to ~~individual privacy or individual~~
 or public safety or the security of public facilities, including public schools, jails, correctional facilities, private
 correctional facilities, and prisons, if release of the information ~~may jeopardize~~ JEOPARDIZES the safety of facility

1 personnel, the public, students in a public school, or inmates of a facility. ~~Security features that may be protected~~
2 ~~under this section include but are not limited to architectural floor plans, blueprints, designs, drawings, building~~
3 ~~materials, alarm system plans, surveillance techniques, and facility staffing plans, including staff numbers and~~
4 ~~locations.~~ A public officer may not withhold from public scrutiny any more information than is required to protect
5 ~~an individual privacy interest or safety or security interest.~~ INDIVIDUAL OR PUBLIC SAFETY OR THE SECURITY OF PUBLIC
6 FACILITIES.

7 ~~(3) The provisions of this section do not apply to collections of the Montana historical society when~~
8 ~~restrictions on access have been imposed by collection creators or donors and the collections do not contain~~
9 ~~public information.~~

10 (3) THE MONTANA HISTORICAL SOCIETY MAY HONOR RESTRICTIONS IMPOSED BY PRIVATE RECORD DONORS AS
11 LONG AS THE RESTRICTIONS DO NOT APPLY TO PUBLIC INFORMATION. ALL RESTRICTIONS MUST EXPIRE NO LATER THAN
12 50 YEARS FROM THE DATE THE PRIVATE RECORD WAS RECEIVED. UPON THE EXPIRATION OF THE RESTRICTION, THE
13 PRIVATE RECORDS WILL BE MADE ACCESSIBLE TO THE PUBLIC.

14
15 NEW SECTION. **Section 4. Public information requests -- fees.** (1) A person may request public
16 information from a public agency. A public agency shall make the means of requesting public information
17 accessible to all persons.

18 (2) Upon receiving a request for public information, a public agency shall respond in a timely manner to
19 the requesting person ~~with an estimate of the time it will take to fulfill the request and any fees that may be~~
20 ~~charged pursuant to subsection (3) BY:~~

21 (A) MAKING THE PUBLIC INFORMATION MAINTAINED BY THE PUBLIC AGENCY AVAILABLE FOR INSPECTION AND
22 COPYING BY THE REQUESTING PERSON; OR

23 (B) PROVIDING THE REQUESTING PERSON WITH AN ESTIMATE OF THE TIME IT WILL TAKE TO FULFILL THE REQUEST
24 IF THE PUBLIC INFORMATION CANNOT BE READILY IDENTIFIED AND GATHERED AND ANY FEES THAT MAY BE CHARGED
25 PURSUANT TO SUBSECTION (3).

26 (3) A public agency may charge a fee for fulfilling a public information request. ~~The~~ EXCEPT WHERE A FEE
27 IS OTHERWISE PROVIDED FOR BY LAW, THE fee may not exceed the actual costs directly incident to fulfilling the
28 request in the most cost-efficient and timely manner possible. The fee must be documented. The fee may include
29 the time required to gather public information. THE PUBLIC AGENCY MAY REQUIRE THE REQUESTING PERSON TO PAY
30 THE ESTIMATED FEE PRIOR TO IDENTIFYING AND GATHERING THE REQUESTED PUBLIC INFORMATION.

1 (4) A PUBLIC AGENCY IS NOT REQUIRED TO ALTER OR CUSTOMIZE PUBLIC INFORMATION TO PROVIDE IT IN A FORM
2 SPECIFIED TO MEET THE NEEDS OF THE REQUESTING PERSON.

3 (5) IF A PUBLIC AGENCY AGREES TO A REQUEST TO CUSTOMIZE A RECORDS REQUEST RESPONSE, THE COSTS
4 OF THE CUSTOMIZATION MAY BE INCLUDED IN THE FEES CHARGED BY THE AGENCY.

5 ~~(4)~~(6) (a) The secretary of state is authorized to charge fees under this section. The fees must be set
6 and deposited in accordance with 2-15-405. The fees must be collected in advance.

7 (b) The secretary of state may not charge a fee to a member of the legislature or public officer for any
8 search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or
9 resolution passed by the legislature relative to the member's official duties.

10
11 NEW SECTION. Section 5. Special fees allowable for certain information. (1) In addition to the fee
12 allowed under [section 4], the department of revenue may charge an additional fee as reimbursement for the cost
13 of developing and maintaining the property valuation and assessment system database from which the
14 information is requested. The fee must be charged to persons, federal agencies, state agencies, and other
15 entities requesting the database or any part of the database from any department property valuation and
16 assessment system. The fee may not be charged to the governor's office of budget and program planning, the
17 state tax appeal board, or any legislative body or its members or staff.

18 (2) The department of revenue may not charge a fee for information provided from any department
19 property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other
20 governmental functions or to an individual taxpayer concerning the taxpayer's property.

21 (3) All fees received by the department of revenue under [section 4] and this section must be deposited
22 in the property value improvement fund as provided in 15-1-521.

23 (4) In accordance with the fees allowed under [section 4], the Montana historical society may charge fees
24 as approved by its board of trustees for copies of materials contained in its collections, based on documentable
25 curatorial duties as set forth in 22-3-101.

26
27 NEW SECTION. Section 6. Management of public records -- disposal and destruction. (1) (a) Each
28 public officer is responsible for properly managing the public records within the public officer's possession or
29 control through an established records management plan that satisfies the requirements of this chapter.

30 (b) Executive branch agencies shall manage public records according to the provisions of [sections 13

1 through 21] and the rules and guidelines established by the secretary of state, the state records committee, and
2 the Montana historical society.

3 (c) Local governments shall manage public records according to the provisions of [sections 22 through
4 24] and the rules and guidelines established by the secretary of state, the local government records committee,
5 and the Montana historical society.

6 (d) Pursuant to 5-2-503 and 5-11-105, the legislative council shall administer the records management
7 plan for the legislative branch. The legislative branch ~~may seek assistance from~~ SHALL COOPERATE WITH the
8 secretary of state, the state records committee, the local government records committee, and the Montana
9 historical society ~~regarding~~ IN THE development, implementation, and administration of the legislative records
10 management plan USING [SECTIONS 13 THROUGH 21] AS GUIDANCE.

11 (e) The judicial branch shall establish a records management plan. The judicial branch may seek
12 assistance from the secretary of state, the state records committee, the local government records committee, and
13 the Montana historical society regarding development, implementation, and administration of the judicial records
14 management plan.

15 (2) When a public record has reached the end of its retention period, the public officer shall ensure the
16 record is disposed of, destroyed, or transferred according to the provisions of this chapter.

17
18 NEW SECTION. Section 7. Preservation of public records -- possession of public records. (1) All
19 public records are and remain the property of the ~~state~~ PUBLIC AGENCY POSSESSING THE RECORDS. The public
20 records must be delivered by outgoing public officers and employees to their successors and must be preserved,
21 stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of
22 this chapter.

23 (2) If an outgoing public officer or employee refuses or fails to deliver to the current public officer or
24 employee any public records that pertain to that public office, the current public officer or employee may file a
25 complaint in the district court of the county where the outgoing public officer or employee resides, pursuant to the
26 Montana Rules of Civil Procedure, to compel the outgoing public officer or employee to deliver any public records
27 still in the outgoing public officer or employee's possession to the current public officer or employee.

28
29 NEW SECTION. Section 8. Written notice of denial -- civil action -- costs to ~~plaintiff~~ PREVAILING
30 PARTY in certain actions to enforce constitutional OR STATUTORY rights. (1) A public agency that denies an

1 information request to release information or records shall provide a written explanation for the denial.

2 (2) If a person who makes an information request receives a denial from a public agency and believes
3 that the denial violates the provisions of this chapter, the person may file a complaint pursuant to the Montana
4 Rules of Civil Procedure in district court.

5 (3) A ~~plaintiff~~ PERSON WHOSE ORIGINAL INFORMATION REQUEST WAS DENIED ALLEGING A DEPRIVATION OF
6 RIGHTS who prevails in an action brought in district court to enforce the ~~plaintiff's~~ PERSON'S rights under Article II,
7 section 9, of the Montana constitution OR UNDER THE PROVISIONS OF [SECTIONS 1 THROUGH 24] ~~may~~ MUST ~~MAY~~ be
8 awarded costs and reasonable attorney fees.

9
10 NEW SECTION. Section 9. Certified copies of records -- historic records and constitutional
11 officer records -- EXCEPTION. (1) A person may request a certified copy of a public record from a public agency
12 subject to the provisions of [section 3]. The public agency may charge a fee for the certified copy in accordance
13 with [section 4].

14 (2) A person may request a certified copy of a historic record or a constitutional officer record from the
15 Montana historical society subject to the provisions of [section 3]. The Montana historical society may charge a
16 fee for the certified copy in accordance with [sections 4 and 5(4)].

17 (3) A certified copy created by the Montana historical society of a historic record or a constitutional officer
18 record has the same force in law as if made by the original public agency that created the record.

19 (4) PURSUANT TO 2-15-403, THIS SECTION DOES NOT APPLY TO CERTIFIED COPIES PROVIDED BY THE SECRETARY
20 OF STATE FOR INFORMATION CONTAINED IN THE SECRETARY OF STATE'S CORPORATE AND UNIFORM COMMERCIAL CODE
21 ELECTRONIC FILING SYSTEM.

22
23 NEW SECTION. Section 10. Protection and storage of essential records. (1) To provide for the
24 continuity and preservation of civil government, each public officer shall designate certain public records as
25 essential records. The list must be continually maintained by the public officers to ensure its accuracy. Each
26 public officer shall collaborate with the appropriate continuity of government programs to ensure essential records
27 are identified and maintained.

28 (2) Each public officer shall ensure essential records are efficiently and effectively secured. Each public
29 officer shall look to the guidance provided by the state records committee or the local government records
30 committee in choosing appropriate methods to protect, store, back up, and recover essential records.

1
2 **NEW SECTION. Section 11. Prohibition on dissemination or use of distribution lists -- exceptions**
3 **-- penalties.** (1) Except as provided in subsections (3) through (9), to protect the privacy of those who deal with
4 state and local government:
5 (a) a public agency may not distribute or sell a distribution list without first securing the permission of
6 those on the list; and
7 (b) a list of persons prepared by a public agency may not be used as a distribution list without first
8 securing the permission of those on the list except by that agency.
9 (2) As used in this section, "distribution list" means any list of personal contact information collected by
10 a public agency and used to facilitate unsolicited contact with individuals on the distribution list.
11 (3) This section does not prevent an individual from compiling a distribution list by examination of records
12 that are otherwise open to public inspection.
13 (4) This section does not apply to the lists of:
14 (a) registered electors and the new voter lists provided for in 13-2-115;
15 (b) the names of employees governed by Title 39, chapter 31;
16 (c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127;
17 (d) persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37,
18 chapters 1 through 4, 6 through 20, 22 through 29, 31, 34 through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through
19 69, 72, and 73; and Title 50, chapters 39, 72, 74, and 76; or
20 (e) persons certified as claims examiners under 39-71-320.
21 (5) This section does not prevent an agency from providing a list to persons providing prelicensing or
22 continuing education courses subject to state law or subject to Title 33, chapter 17.
23 (6) This section does not apply to the right of access by Montana law enforcement agencies.
24 (7) This section does not apply to ~~a corporate information list developed by the secretary of state~~
25 ~~containing the name, address, registered agent, officers, and directors of business, nonprofit, religious,~~
26 ~~professional, and close corporations authorized to do business in this state~~ THE SECRETARY OF STATE'S ELECTRONIC
27 FILING SYSTEM DEVELOPED PURSUANT TO 2-15-404 AND CONTAINING CORPORATE AND UNIFORM COMMERCIAL CODE
28 INFORMATION.
29 (8) This section does not apply to the use by the public employees' retirement board of a list of
30 board-administered retirement system participants to send materials on behalf of a retiree organization formed

for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the list is not released to the organization.

(9) THIS SECTION DOES NOT APPLY TO LISTS OF INDIVIDUALS WHO SIGN ATTENDANCE SHEETS OR SIGN-IN SHEETS AT A HEARING OR MEETING OF A PUBLIC AGENCY.

~~(9)~~(10) This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.

~~(10)~~(11) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.

NEW SECTION. Section 12. Concealment of public hazards prohibited -- concealment of information related to settlement or resolution of civil suits prohibited. (1) This section may be cited as the "Gus Barber Antisecrecy Act".

(2) As used in this section, "public hazard" means a device, instrument, or manufactured product or a condition of a device, instrument, or manufactured product that endangers public safety or health and has caused injury, as defined in 27-1-106.

(3) Except as otherwise provided in this section, a court may not enter a final order or judgment that has the purpose or effect of concealing a public hazard.

(4) Any portion of a final order or judgment entered or a written final settlement agreement entered into that has the purpose or effect of concealing a public hazard is contrary to public policy, is void, and may not be enforced. This section does not prohibit the parties from keeping the monetary amount of a written final settlement agreement confidential.

(5) A party to civil litigation may not request, as a condition to the production of discovery, that another party stipulate to an order that would violate this section.

(6) This section does not apply to:

(a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected pursuant to Title 30, chapter 14, part 4;

(b) other information that is confidential under state or federal law; or

(c) a health care provider, as defined in 27-6-103.

(7) Any affected person, including but not limited to a representative of the news media, has standing to contest a final order or judgment or written final settlement agreement that violates this section by motion in

1 the court in which the case was filed.

2 (8) The court shall examine the disputed information or materials in camera. If the court finds that the
3 information or materials or portions of the information or materials consist of information concerning a public
4 hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow
5 disclosure of only that portion of the information or materials necessary or useful to the public concerning the
6 public hazard.

7 (9) This section does not apply to a protective order issued under Rule 26(c) of the Montana Rules of
8 Civil Procedure or to any materials produced under the order. Materials used as exhibits may be publicly
9 disclosed pursuant to the provisions of subsections (7) and (8).

10
11 **NEW SECTION. Section 13. Secretary of state -- powers and duties -- rulemaking authority.** (1)

12 To ensure the proper management and safeguarding of public records, the secretary of state shall:

13 (a) establish guidelines based on accepted industry standards for managing public records;

14 (b) upon request of another executive branch agency, review, analyze, and make recommendations
15 regarding executive branch agency filing systems and procedures;

16 (c) operate the state records center for the purpose of storing and servicing public records not retained
17 in office space;

18 (d) provide information and training materials for all phases of efficient and effective records
19 management;

20 (e) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies;

21 (f) consult with the department of administration pursuant to [section 14];

22 (g) adopt rules regarding management of public records;

23 (h) adopt rules to implement the objectives of the state records committee and local government records
24 committee; and

25 (i) upon request, assist and advise in the establishment of records management procedures in the
26 legislative and judicial branches of state government and provide services similar to those available to the
27 executive branch.

28 (2) In addition to the requirements under subsection (1), the secretary of state may operate a central
29 microfilm unit to microfilm, on a cost recovery basis, all records approved for filming by the office of origin and
30 the secretary of state.

1
2 **NEW SECTION. Section 14. Department of administration -- powers and duties.** (1) To ensure
3 compatibility with the information technology systems of state government and to promote adherence to records
4 management principles and best practices, the department of administration, in consultation with the secretary
5 of state, shall establish standards for technological compatibility for state agencies for records management
6 equipment or systems used to electronically capture, store, or retrieve public records through computerized,
7 optical, or other electronic methods.

8 (2) The department of administration, in consultation with the secretary of state, shall approve all
9 acquisitions of executive branch agency records management equipment or systems used to electronically
10 capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure
11 compatibility with the standards developed under subsection (1).

12 (3) The department of administration is responsible for the management and operation of equipment,
13 systems, facilities, and processes integral to the department's central computer center and statewide
14 telecommunications system.

15
16 **NEW SECTION. Section 15. State records committee -- composition and meetings.** (1) There is
17 a state records committee composed of:

18 (a) representatives of:

19 (i) the department of administration;

20 (ii) the legislative auditor;

21 (iii) the attorney general;

22 (iv) the secretary of state;

23 (v) the Montana historical society;

24 (vi) THE GOVERNOR;

25 ~~(vi)~~(vii) the clerk of the supreme court; and

26 ~~(vii)~~(viii) the state chief information officer; and

27 (b) five members representing executive branch agencies designated pursuant to subsections (4) and
28 (5).

29 (2) The state records committee is administered by the secretary of state, and the secretary of state's
30 representative serves as the presiding officer for the committee.

(3) The committee members representing the agencies in subsection (1)(a) are designated by the heads of the respective agencies, and their appointments must be submitted in writing to the secretary of state. These committee members serve at the pleasure of the heads of their respective agencies.

(4) To implement subsection (1)(b), the committee members in subsection (1)(a) shall develop a rotation by which each of the executive branch agencies is designated to select a representative to serve a 2-year term as a committee member. The secretary of state shall adopt the rotation by administrative rule.

(5) The committee shall establish guidelines for the heads of executive branch agencies in appointing representatives to ensure the executive branch representatives provide a balance of perspectives from records management, information technology, and legal professionals.

(6) The committee shall meet at least quarterly.

(7) Committee members shall serve without additional salary but are entitled to reimbursement for travel expenses incurred while engaged in committee activities as provided for in 2-18-501 through 2-18-503. Expenses must be paid from the appropriations made for operation of their respective agencies.

NEW SECTION. Section 16. State records committee duties and responsibilities. The purpose of the state records committee is to act as a resource for executive branch agencies and others by staying at the forefront of records management best practices. The committee shall:

(1) gather and disseminate information on all phases of records management;

(2) advise the secretary of state in developing records management standards, guidelines, and training materials;

(3) develop guidelines to help agencies identify, maintain, and secure their essential records;

(4) serve as a forum for continuing collaboration among records management, information technology, and legal professionals throughout state agencies;

(5) make recommendations to the secretary of state for rulemaking regarding public records management;

(6) regularly review existing public records laws and make recommendations to the secretary of state regarding pursuing statutory change; and

(7) report biennially to the governor and, as provided in 5-11-210, the legislature on the activities of the committee, improvements in records management in state government, aspects of records management requiring further improvement, and committee recommendations and plans for further improvement.

1
2 **NEW SECTION. Section 17. Retention and disposition subcommittee -- approval required for**
3 **record disposal.** (1) There is a subcommittee of the state records committee to be known as the retention and
4 disposition subcommittee. The subcommittee is composed of the members of the state records committee who
5 represent the following offices:

6 (a) the department of administration;

7 (b) the legislative auditor;

8 (c) the attorney general;

9 (d) the secretary of state; and

10 (e) the Montana historical society.

11 (2) The subcommittee shall approve, modify, or disapprove the recommendations on retention schedules
12 of all public records.

13 (3) Except as provided in subsection (4), no public record may be disposed of or destroyed without the
14 unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction
15 must be submitted to the subcommittee by the agency concerned.

16 (4) The subcommittee may by unanimous approval establish categories of records for which no disposal
17 request is required if those records are retained for the designated retention period.

18
19 **NEW SECTION. Section 18. Historic records -- Montana historical society -- powers and duties.**
20 To ensure the proper management and safeguarding of historic records, the Montana historical society shall:

21 (1) establish and operate the state archives as authorized by appropriation for the purpose of storing,
22 preserving, and providing access to historic records transferred to the custody of the state archives;

23 (2) in cooperation with the secretary of state, the local government records committee, and the state
24 records committee, establish guidelines to inventory, catalog, retain, transfer, and provide access to all historic
25 records;

26 (3) maintain and enforce restrictions on access to historic records in the custody of the state archives
27 in accordance with the provisions of this part; and

28 (4) in accordance with the guidelines established pursuant to subsection (2), remove and destroy
29 duplicate records and records considered to have no historical value.

1 **NEW SECTION. Section 19. Constitutional officer records -- Montana historical society.** (1) All

2 constitutional officer records are the property of the state. The records must be delivered by outgoing
3 constitutional officers to their successors, who shall preserve, store, transfer, destroy, or dispose of and otherwise
4 manage them in accordance with the provisions of this section.

5 (2) Within 2 years after taking office as a constitutional officer, the current constitutional officer shall
6 consult with staff members of the Montana historical society and transfer to the Montana historical society all of
7 the constitutional officer records of the prior officeholder that are not necessary to the current operation of that
8 office and are considered worthy of preservation.

9 (3) An outgoing constitutional officer, in consultation with staff members of the Montana historical society,
10 shall review constitutional officer records and isolate any items of a purely personal nature. The personal papers
11 are not subject to this section, but they may be deposited along with the constitutional officer records at the
12 Montana historical society at the constitutional officer's discretion.

13 (4) An outgoing constitutional officer, in consultation with staff members of the Montana historical society,
14 may restrict access to certain segments of that officer's records. Restrictions may not be longer than the lifetime
15 of the depositing official. Restricted access may be imposed only to protect the confidentiality of personal
16 information contained in the records. Restricted access may not be imposed unless the demand of individual
17 privacy clearly exceeds the merits of public disclosure.

18 (5) Any question concerning the transfer or other status of constitutional officer records arising between
19 the state archives and a constitutional officer's office must be decided by a four-fifths vote of the members of the
20 retention and disposition subcommittee provided for in [section 17].

21
22 **NEW SECTION. Section 20. Permanent records -- agency responsibilities -- state records center.**

23 (1) All permanent records no longer required in the current operation of the office where they are made or kept
24 and all records of each agency or activity of the executive branch of state government that has been abolished
25 or discontinued must be maintained by the agency or transferred to the state records center in accordance with
26 approved records retention schedules.

27 (2) When records are transferred to the state records center, the transferring agency does not lose its
28 rights of control and access. The state records center is merely a custodian of the agency records, and access
29 is only by agency approval. Agency records for which the state records center acts as custodian may not be
30 subpoenaed from the state records center but must be subpoenaed from the agency to which the records belong.

1 The state records center may charge fees to cover the cost of records storage and servicing.

2 (3) Prior to transferring a permanent record to the state records center, the transferring agency shall
3 consult with the state archivist to determine whether the record is also a historic record. If the record is found to
4 be a historic record, it must be transferred to the Montana historical society in accordance with the provisions of
5 [section 18].

6
7 **NEW SECTION. Section 21. Agency records management duties.** Each department head shall
8 administer the executive branch agency's records management function and shall:

9 (1) coordinate all aspects of the agency records management function in accordance with procedures
10 prescribed by the secretary of state and the state records committee;

11 (2) analyze records inventory data and examine and compare all inventories within the agency to
12 minimize duplication of records;

13 (3) review and approve records disposal requests for submission to the retention and disposition
14 subcommittee;

15 (4) review established records retention schedules to ensure they are complete and current and make
16 recommendations to the secretary of state and the state records committee regarding minimal retentions for all
17 copies of public records within the agency;

18 (5) incorporate records management requirements into the agency information technology plan provided
19 for in 2-17-523;

20 (6) ensure that all agency employees receive appropriate and ongoing records management training;
21 and

22 (7) after considering guidance from the state records committee regarding records manager
23 qualifications, officially designate a qualified agency records manager to manage the functions provided for in
24 this section.

25
26 **NEW SECTION. Section 22. Local government records committee -- composition and meetings.**

27 (1) There is a local government records committee.

28 (2) The committee consists of the following eight members:

29 (a) the state archivist;

30 (b) the state records manager;

1 (c) a representative of the department of administration;

2 (d) two local government records managers appointed by the director of the Montana historical society;

3 (e) two local government records managers appointed by the secretary of state; and

4 (f) a person representing the Montana state genealogical society, appointed by the secretary of state,
5 who shall serve as a volunteer.

6 (3) Committee members subject to appointment shall hold office for a period of 2 years beginning
7 January 1 of the year following their appointment.

8 (4) Vacancies must be filled in the same manner they were filled originally.

9 (5) The committee shall elect a presiding officer and a vice presiding officer.

10 (6) The committee shall meet at least twice a year upon the call of the secretary of state or the presiding
11 officer.

12 (7) Except for the member appointed in subsection (2)(f), members of the committee not serving as part
13 of their compensated government employment must be compensated in accordance with 2-18-501 through
14 2-18-503 for each day in committee attendance. Members who serve as part of their compensated government
15 employment may not receive additional compensation, but the employing governmental entity shall furnish, in
16 accordance with the prevailing per diem rates, a reasonable allowance for travel and other expenses incurred
17 in attending committee meetings.

18
19 **NEW SECTION. Section 23. Local government records committee -- duties and responsibilities.**

20 The local government records committee shall:

21 (1) approve, modify, or disapprove proposals for local government records retention and disposition
22 schedules;

23 (2) appoint a subcommittee, known as the local government records destruction subcommittee, to handle
24 requests for disposal of records. The subcommittee consists of the state archivist, one of the local government
25 records managers, and the representative of the department of administration. Unless specifically authorized by
26 statute or by the retention and disposition schedule, a local government public record may not be destroyed or
27 otherwise disposed of without the unanimous approval of the subcommittee. When approval is required, a request
28 for the disposal or destruction of local government records must be submitted to the subcommittee by the entity
29 concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must
30 be referred to the local government records committee for approval. When approval is obtained from the

subcommittee or from the local government records committee for the disposal of a record, the local government records committee shall consider the inclusion of a new category of record for which a disposal request is not required and shall update the schedule as necessary.

(3) establish a retention and disposition schedule for categories of records for which a disposal request is not required. The local government records committee shall publish the retention and disposition schedules. Updates to those schedules, if any, must be published at least annually.

(4) develop guidance for local governments to identify, maintain, and secure their essential records;

(5) respond to requests for technical advice on matters relating to local government records; and

(6) provide leadership and coordination in matters affecting the records of multiple local governments.

NEW SECTION. Section 24. Disposal of local government public records prohibited prior to offering -- central registry -- notification. (1) A local government public record more than 10 years old may not be destroyed unless it is first offered to the Montana historical society, the state archives, Montana public and private universities and colleges, local historical museums, local historical societies, Montana genealogical groups, and the general public.

(2) The availability of a public record to be destroyed must be noticed to the entities listed in subsection (1) at least 60 days prior to disposal.

(3) (a) Claimed records must be given to entities in the order of priority listed in subsection (1).

(b) All expenses for the removal of claimed records must be paid by the entity claiming the records.

(c) The local government records committee shall establish procedures by which public records must be offered and claimed pursuant to this section.

(d) The local government records committee shall develop and maintain a central registry of the entities identified in subsection (1) who are interested in receiving notice of the potential destruction of public records pursuant to this section. The registry must be constructed to allow a local government entity to notify the local government records committee when the entity intends to destroy documents covered under this section and allows the local government records committee to subsequently notify the entities in the registry. A local government entity's notice to the local government records committee pursuant to this subsection (3)(d) and the records committee's notice to the entities listed on the registry fulfills the notification requirements of this section.

NEW SECTION. Section 25. Definitions. As used in [sections 25 through 27], the following definitions

- 1 apply:
- 2 (1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of
- 3 computerized data that:
- 4 (a) materially compromises the security, confidentiality, or integrity of the personal information maintained
- 5 by a state agency or by a third party on behalf of a state agency; and
- 6 (b) causes or is reasonably believed to cause loss or injury to a person.
- 7 (2) "Individual" means a human being.
- 8 (3) "Person" means an individual, a partnership, a corporation, an association, or a public organization
- 9 of any character.
- 10 (4) (a) "Personal information" means a first name or first initial and last name in combination with any
- 11 one or more of the following data elements when the name and data elements are not encrypted:
- 12 (i) a social security number or tax identification number;
- 13 (ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal
- 14 identification number or enrollment number, or a similar identification number issued by any state, the District of
- 15 Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; or
- 16 (iii) an account number or credit or debit card number in combination with any required security code,
- 17 access code, or password that would permit access to a person's financial account.
- 18 (b) The term does not include publicly available information from federal, state, local, or tribal government
- 19 records.
- 20 (5) "Redaction" means the alteration of personal information contained within data to make all or a
- 21 significant part of the data unreadable. The term includes truncation, which means that no more than the last four
- 22 digits of an identification number are accessible as part of the data.
- 23 (6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee,
- 24 council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive
- 25 branch of state government. The term includes an employee of a state agency acting within the course and scope
- 26 of employment.
- 27 (b) The term does not include an entity of the judicial branch.
- 28 (7) "Third party" means:
- 29 (a) a person with a contractual obligation to perform a function for a state agency; or
- 30 (b) a state agency with a contractual or other obligation to perform a function for another state agency.

1
2 **NEW SECTION. Section 26. Protection of personal information -- compliance -- extensions.** (1)

3 Each state agency that maintains the personal information of an individual shall develop procedures to protect
4 the personal information while enabling the state agency to use the personal information as necessary for the
5 performance of its duties under federal or state law.

6 (2) The procedures must include measures to:

7 (a) eliminate the unnecessary use of personal information;

8 (b) identify the person or state agency authorized to have access to personal information;

9 (c) restrict access to personal information by unauthorized persons or state agencies;

10 (d) identify circumstances in which redaction of personal information is appropriate;

11 (e) dispose of documents that contain personal information in a manner consistent with other record
12 retention requirements applicable to the state agency;

13 (f) eliminate the unnecessary storage of personal information on portable devices; and

14 (g) protect data containing personal information if that data is on a portable device.

15 (3) Except as provided in subsection (4), each state agency that is created after [the effective date of
16 this act] shall complete the requirements of this section within 1 year of its creation.

17 (4) The chief information officer provided for in 2-17-511 may grant an extension to any state agency
18 subject to the provisions of the Montana Information Technology Act provided for in Title 2, chapter 17, part 5.
19 The chief information officer shall inform the information technology board, the office of budget and program
20 planning, and the legislative finance committee of all extensions that are granted and of the rationale for granting
21 the extensions. The chief information officer shall maintain written documentation that identifies the terms and
22 conditions of each extension and the rationale for the extension.

23
24 **NEW SECTION. Section 27. Notification of breach of security of data system.** (1) (a) Upon
25 discovery or notification of a breach of the security of a data system, a state agency that maintains computerized
26 data containing personal information in the data system shall make reasonable efforts to notify any person whose
27 unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized
28 person.

29 (b) The notification must be made without unreasonable delay, consistent with the legitimate needs of
30 law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the

1 breach and to restore the reasonable integrity of the data system.

2 (2) (a) A third party that receives personal information from a state agency and maintains that information
3 in a computerized data system to perform a state agency function shall:

4 (i) notify the state agency immediately following discovery of the breach if the personal information is
5 reasonably believed to have been acquired by an unauthorized person; and

6 (ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose
7 unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as
8 part of the breach. This notification must be provided in the same manner as the notification required in
9 subsection (1).

10 (b) A state agency notified of a breach by a third party has no independent duty to provide notification
11 of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a)
12 but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third
13 party its reasonable costs for providing the notice.

14 (3) The notification required by this section may be delayed if a law enforcement agency determines that
15 the notification will impede a criminal investigation and requests a delay of notification. The notification required
16 by this section must be made after the law enforcement agency determines that the notification will not
17 compromise the investigation.

18 (4) All state agencies and third parties to whom personal information is disclosed by a state agency shall
19 develop and maintain:

20 (a) an information security policy designed to safeguard personal information; and

21 (b) breach notification procedures that provide reasonable notice to individuals as provided in
22 subsections (1) and (2).

23 (5) A STATE AGENCY OR A THIRD PARTY THAT IS REQUIRED TO ISSUE A NOTIFICATION TO AN INDIVIDUAL
24 PURSUANT TO THIS SECTION SHALL SIMULTANEOUSLY SUBMIT TO THE STATE'S CHIEF INFORMATION OFFICER AT THE
25 DEPARTMENT OF ADMINISTRATION AN ELECTRONIC COPY OF THE NOTIFICATION AND A STATEMENT PROVIDING THE DATE
26 AND METHOD OF DISTRIBUTION OF THE NOTIFICATION. THE ELECTRONIC COPY AND STATEMENT OF NOTIFICATION MUST
27 EXCLUDE ANY INFORMATION THAT IDENTIFIES THE PERSON WHO IS ENTITLED TO RECEIVE NOTIFICATION. IF A NOTIFICATION
28 IS MADE TO MORE THAN ONE PERSON, A SINGLE COPY OF THE NOTIFICATION THAT INCLUDES THE NUMBER OF PEOPLE WHO
29 WERE NOTIFIED MUST BE SUBMITTED TO THE CHIEF INFORMATION OFFICER.

1 **NEW SECTION. Section 28. Custody and reproduction of certain records by secretary of state.**

2 (1) The secretary of state is charged with the custody of:

3 (a) the enrolled copy of the constitution;

4 (b) all the acts and resolutions passed by the legislature;

5 (c) the journals of the legislature;

6 (d) the great seal;

7 (e) all ~~books, records, parchments, maps, and papers~~ DOCUMENTS kept or deposited in the secretary of
8 state's office pursuant to law.

9 (2) All records included in subsection (1) may be kept and reproduced in accordance with rules adopted
10 by the secretary of state in consultation with the state records committee provided for in [section 15].

11 (3) The state records committee may approve the disposal of original records once those records are
12 reproduced as provided for in subsection (2) unless disposal takes the form of transfer of records. Reproduction
13 is not necessary for transferred records. The reproduction or certified copy of a record may be used in place of
14 the original for all purposes, including as evidence in any court or proceeding, and has the same force and effect
15 as the original record.

16 ~~(4) The secretary of state shall prepare enlarged typed or photographic copies of the records whenever~~
17 ~~their production is required by law.~~

18 ~~—— (5) At least two copies must be made of all records reproduced as provided for in subsection (2). The~~
19 ~~secretary of state shall place one copy in a fireproof storage place and shall retain the other copy in the office with~~
20 ~~suitable equipment for displaying a record by projection to not less than its original size and for preparing copies~~
21 ~~of the record for persons entitled to copies.~~

22 ~~—— (6) All duplicates of records must be identified and indexed.~~

23
24 ~~—— **NEW SECTION. Section 29. Filing and copying fees -- exceptions.** (1) The secretary of state shall~~
25 ~~charge and collect fees for filing and copying services.~~

26 ~~—— (2) A member of the legislature or a state or county officer may not be charged for a search relative to~~
27 ~~matters pertaining to the duties of the member's or officer's office or for a certified copy of any law or resolution~~
28 ~~passed by the legislature relative to the member's or officer's official duties.~~

29 ~~—— (3) The secretary of state may not charge a fee, other than as authorized in [section 4], for providing~~
30 ~~public information.~~

1 ~~_____ (4) Fees must be collected in advance and are not refundable.~~

2 ~~_____ (5) Fees authorized by this section must be set and deposited in accordance with 2-15-405.~~

3
4 **SECTION 29. SECTION 2-3-212, MCA, IS AMENDED TO READ:**

5 **"2-3-212. Minutes of meetings -- public inspection.** (1) Appropriate minutes of all meetings required
6 by 2-3-203 to be open must be kept and must be available for inspection by the public. If an audio recording of
7 a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an
8 official recording is made, a written record of the meeting must also be made and must include the information
9 specified in subsection (2).

10 (2) Minutes must include without limitation:

11 (a) the date, time, and place of the meeting;

12 (b) a list of the individual members of the public body, agency, or organization who were in attendance;

13 (c) the substance of all matters proposed, discussed, or decided; and

14 (d) at the request of any member, a record of votes by individual members for any votes taken.

15 (3) If the minutes are recorded and designated as the official record, a log or time stamp for each main
16 agenda item is required for the purpose of providing assistance to the public in accessing that portion of the
17 meeting.

18 (4) Any time a presiding officer closes a public meeting pursuant to 2-3-203, the presiding officer shall
19 ensure that accurate and appropriate minutes MINUTES TAKEN IN COMPLIANCE WITH SUBSECTION (2) are kept of the
20 closed portion of the meeting. The minutes from the closed portion of the meeting may not be made available for
21 inspection except pursuant to a court order."

22
23 **SECTION 30. SECTION 2-3-221, MCA, IS AMENDED TO READ:**

24 **"2-3-221. Costs to plaintiff prevailing party in certain actions to enforce constitutional right to**
25 **know.** A ~~plaintiff person who alleges a violation and~~ ALLEGING A DEPRIVATION OF RIGHTS who prevails in an action
26 brought in district court to enforce the ~~plaintiff's~~ PERSON'S rights under Article II, section 9, of the Montana
27 constitution ~~may must~~ MAY be awarded costs and reasonable attorney fees."

28
29 **Section 31.** Section 2-3-301, MCA, is amended to read:

30 **"2-3-301. Agency to accept public comment electronically -- dissemination of electronic mail**

address and documents required -- prohibiting fees prohibited. (1) An agency that accepts public comment pursuant to a statute, administrative rule, or policy, including an agency adopting rules pursuant to the Montana Administrative Procedure Act or an agency to which 2-3-111 applies, shall provide for the receipt of public comment by the agency by use of an electronic mail system.

(2) As part of the agency action required by subsection (1), an agency shall disseminate by appropriate media its electronic mail address to which public comment may be made, including dissemination in:

(a) rulemaking notices published pursuant to the Montana Administrative Procedure Act;

(b) the telephone directory of state agencies published by the department of administration;

(c) any notice of agency existence, purpose, and operations published on the internet ~~world-wide-web,~~ popularly known as a "website", used by the agency; or

(d) any combination of the methods of dissemination provided in subsections (2)(a) through (2)(c).

(3) An agency shall, at the request of another agency or person and subject to ~~2-6-102~~ section 3, disseminate the electronic documents to that agency or person by electronic mail in place of surface mail. Notification of the availability of an electronic notice of proposed rulemaking may be sent to an interested person as provided in 2-4-302(2)(a)(ii). An agency may not charge a fee for providing documents by electronic mail in accordance with this subsection.

(4) An agency that receives electronic mail pursuant to subsection (1) shall retain the electronic mail as either an electronic or a paper copy to the same extent that other comments are retained.

(5) As used in this section, "agency" means a department, division, bureau, office, board, commission, authority, or other agency of the executive branch of state government."

Section 32. Section 2-15-2017, MCA, is amended to read:

"2-15-2017. Domestic violence fatality review commission -- confidentiality of meetings and records -- criminal liability for unauthorized disclosure -- report to legislature. (1) There is a domestic violence fatality review commission in the department of justice.

(2) The commission shall:

(a) examine the trends and patterns of domestic violence-related fatalities in Montana;

(b) educate the public, service providers, and policymakers about domestic violence fatalities and strategies for intervention and prevention; and

(c) recommend policies, practices, and services that may encourage collaboration and reduce fatalities

1 due to domestic violence.

2 (3) The members of the commission, not to exceed 18, are appointed by the attorney general from
3 among the following disciplines:

4 (a) representatives from state departments that are involved in issues of domestic abuse;

5 (b) representatives of private organizations that are involved in issues of domestic abuse;

6 (c) medical and mental health care providers who are involved in issues of domestic abuse;

7 (d) representatives from law enforcement, the judiciary, and the state bar of Montana;

8 (e) representatives of Montana Indian tribes;

9 (f) other concerned citizens; and

10 (g) a member of the legislature who serves on either the house judiciary committee or the senate
11 judiciary committee.

12 (4) The members shall serve without compensation by the commission but are entitled to be reimbursed
13 for travel expenses as provided for in 2-18-501 through 2-18-503, and members who are full-time salaried officers
14 or employees of this state or of any political subdivision of this state are entitled to their regular compensation.
15 The provisions of 2-15-122 do not apply to the commission.

16 (5) The commission shall review closed domestic homicide cases selected by the attorney general to
17 provide the commission with the best opportunity to fulfill its duties under this section.

18 (6) Upon written request from the commission, a person who possesses information or records that are
19 necessary and relevant to a domestic violence fatality review shall, as soon as practicable, provide the
20 commission with the information and records. A person who provides information or records upon request of the
21 commission is not criminally or civilly liable for providing information or records in compliance with this section.

22 (7) The meetings and proceedings of the commission are confidential and are exempt from the
23 provisions of Title 2, chapter 3.

24 (8) The records of the commission are confidential INFORMATION AS DEFINED IN [SECTION 2] and are
25 ~~exempt from the provisions of Title 2, chapter 6 protected from disclosure under [section 3]~~. The records are not
26 subject to subpoena, discovery, or introduction into evidence in a civil or criminal action unless the records are
27 reviewed by a district court judge and ordered to be provided to the person seeking access. The commission shall
28 disclose conclusions and recommendations upon request but may not disclose information, records, or data that
29 are otherwise confidential. The commission may not use the information, records, or data for purposes other than
30 those designated by subsections (2)(a) and (2)(c).

(9) The commission may require any person appearing before it to sign a confidentiality agreement created by the commission in order to maintain the confidentiality of the proceedings. In addition, the commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(10) A member of the commission who knowingly uses information obtained pursuant to subsection (6) for a purpose not authorized in subsection (2) or who discloses information in violation of subsection (8) is subject to a civil penalty of not more than \$500.

(11) The commission shall report its findings and recommendations in writing to the law and justice interim committee, the attorney general, the governor, and the chief justice of the Montana supreme court prior to each regular legislative session. The report must be made available to the public through the office of the attorney general. The commission may issue data or other information periodically, in addition to the biennial report."

Section 33. Section 5-11-203, MCA, is amended to read:

"5-11-203. Distribution of session laws -- ~~inspection~~ examination of journals. (1) Immediately after the session laws are published, the legislative services division shall distribute them.

(2) The legislative services division shall make the house and senate journals available for ~~inspection~~ examination or copying by the public as provided in ~~Title 2, chapter 6, part 1~~ sections 1 through 12. The legislative services division may publish the journals in an electronic format.

(3) The following entities may receive the number of copies of session laws listed at no cost:

(a) to the library of congress, eight copies;

(b) to the state library, two copies;

(c) to the state historical library, two copies;

(d) to the state law librarian, four copies for the use of the library and additional copies as may be required for exchange with libraries and institutions maintained by other states and territories and public libraries;

(e) to the library of each custodial institution, one copy;

(f) to each Montana member of congress, each United States district judge in Montana, each of the judges of the state supreme and district courts, and each of the state officers as defined in 2-2-102, one copy;

(g) to any agency, board, commission, or office of the state, other than a state officer, and to any other subdivision of the state upon request and approval by the legislative council, one copy;

(h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house of representatives from the session at which the laws were adopted, one copy;

(i) to each of the community college districts of the state, as defined in 20-15-101, and each unit of the Montana university system, one copy;

(j) to each county clerk, one copy for the use of the county; and

(k) to each county attorney and to each clerk of a district court, one copy."

Section 34. Section 7-4-2614, MCA, is amended to read:

"7-4-2614. Records of certificates of discharge from military service. (1) It is the duty of the county clerk of any county of this state to record, without charge and in a book kept for that purpose, the certificate of discharge of an honorably discharged person who served with the United States forces upon that person's request. It is not the clerk's duty to file the certificate.

(2) A record of a military discharge certificate is confidential INFORMATION AS DEFINED IN [SECTION 2] and ~~exempt from the provisions of Title 2, chapter 6 is protected from disclosure under [section 3]~~. A military discharge certificate may be disclosed only to:

(a) the service member for whom the certificate was recorded;

(b) if the service member is deceased, the next of kin of the service member or a mortuary, as defined in 10-2-111, for the purposes of securing the burial benefits to which the service member is entitled;

(c) a veterans' service officer or a veterans' service organization, as defined in 10-2-111;

(d) the veterans' affairs division of the Montana department of military affairs; or

(e) any person with written authorization from the service member or from the next of kin of the service member, if the service member is deceased.

(3) If an original discharge certificate was inadvertently filed and the county clerk still retains the certificate in its original form, upon the written request of the service member or of the service member's next of kin if the service member is deceased, the clerk shall return the filed certificate to the service member or to the service member's next of kin if the service member is deceased.

(4) For purposes of this section:

(a) "file" means to store in original form; and

(b) "record" means to make and keep a copy from which a certified original copy can be reproduced."

1 **Section 35.** Section 7-5-2132, MCA, is amended to read:

2 **"7-5-2132. Destruction of county records.** Upon the order of the board of county commissioners and
3 with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~
4 [section 23], a county officer may destroy records that have met the retention period, as contained in the local
5 government records retention and disposition schedules, and that are no longer needed by the office."
6

7 **Section 36.** Section 7-5-4124, MCA, is amended to read:

8 **"7-5-4124. Destruction of municipal records.** Upon the order of the city or town council or commission
9 and with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~
10 [section 23], a city or town officer may destroy records that have met the retention period, as contained in the local
11 government records retention and disposition schedules, and that are no longer needed by the office."
12

13 **Section 37.** Section 7-11-1007, MCA, is amended to read:

14 **"7-11-1007. Public hearing -- resolution of intention to create special district.** (1) The governing
15 body shall hold at least one public hearing concerning the creation of a proposed special district prior to the
16 passage of a resolution of intention to create the special district. A resolution of intention to create a special
17 district may be based upon a decision of the governing body as provided in 7-11-1003(1)(a) or upon a petition
18 that contains the required number of signatures as provided in 7-11-1003(1)(b).

19 (2) The resolution must designate:

20 (a) the proposed name of the special district;

21 (b) the necessity for the proposed special district;

22 (c) a general description of the territory or lands to be included within the proposed special district, giving
23 the boundaries of the proposed special district;

24 (d) the general character of any proposed improvements and the proposed location for the proposed
25 program or improvements;

26 (e) the estimated cost and method of financing the proposed program or improvements;

27 (f) any requirements specifically applicable to the type of special district;

28 (g) whether the proposed special district would be administered by the governing body or an appointed
29 or elected board; and

30 (h) the duration of the proposed special district.

(3) (a) The governing body shall publish notice of passage of the resolution of intention to create a special district as provided in 7-1-2121 and 7-1-2122 or 7-1-4127 and 7-1-4129, as applicable. The notice must contain a notice of a hearing and the time and place where the hearing will be held.

(b) At the same time that notice is published pursuant to subsection (3)(a), the governing body shall provide a list of those properties subject to potential assessment, fees, or taxation under the creation of the proposed special district. The list may not be distributed or sold for use as a ~~mailing distribution~~ list in accordance with ~~2-6-109~~ [section 11].

(c) A copy of the notice described in subsection (3)(a) must be mailed to each owner or purchaser under contract for deed of the property included on the list referred to in subsection (3)(b) as shown by the current property tax record maintained by the department of revenue for the county."

Section 38. Section 13-1-303, MCA, is amended to read:

"13-1-303. Disposition of ballots and other election materials. (1) (a) Except for a federal election and as provided in 13-15-301(2), the voted ballots, detached stubs, unvoted ballots, and unused ballots from an election must be kept in the unopened packages received from the election judges for a period of 12 months. The packages may be opened only when an order for opening is given by the proper official either for a recount procedure or to process provisional ballots.

(b) The voted ballots, detached stubs, unvoted ballots, and unused ballots from a federal election must be retained in the unopened packages received from the election judges for a period of 22 months. The packages may be opened only as provided in subsection (1)(a) or for a postelection random-sample audit of vote-counting machines.

(c) An election administrator may dispose of the ballots as provided in subsection (2) if after the time periods provided for in this subsection (1), there is no:

(i) contest begun;

(ii) recount pending; or

(iii) appeal of a decision relating to a contest, a recount, or a postelection random-sample audit.

(2) Each election administrator shall prepare a plan for retention and destruction of election records in the county according to the retention schedules established by the local government records committee provided for in ~~2-6-402~~ [section 22]."

1 **Section 39.** Section 13-21-228, MCA, is amended to read:

2 **"13-21-228. Use of voter's e-mail address.** (1) A local election official shall request an e-mail address
3 from each covered voter who registers to vote after January 1, 2014.

4 (2) An e-mail address provided by a covered voter may not be made available to the public or any
5 individual or organization other than a state or local election official and is ~~exempt from disclosure under Title 2,~~
6 ~~chapter 6 [section 3]~~ CONFIDENTIAL INFORMATION AS DEFINED IN [SECTION 2].

7 (3) The address may be used only for official communication with the voter about the voting process,
8 including transmitting military-overseas ballots and election materials if the voter has requested electronic
9 transmission and verifying the voter's mailing address and physical location."

10
11 **Section 40.** Section 15-1-103, MCA, is amended to read:

12 **"15-1-103. Disposal of tax records -- procedure.** (1) Notwithstanding any other provisions of law, the
13 department may dispose of tax records more than 3 years old if the records do not have any further value or as
14 provided in subsection (3).

15 (2) Authorization for disposal of tax records must be made by the director of the department or authorized
16 employees of the department. A copy of the authorization and authenticated list of the records must be
17 maintained by the department.

18 (3) The department may dispose of its original tax records after those records have been reproduced
19 in accordance with rules adopted by the secretary of state in consultation with the state records committee
20 provided for in ~~2-6-208~~ [section 15]. The department shall maintain the reproduction as the public record. The
21 reproduction or certified copy of the reproduction may be used in place of the department's original in any court
22 or proceeding and has the same force and effect as the department's original record."

23
24 **Section 41.** Section 15-1-521, MCA, is amended to read:

25 **"15-1-521. Property valuation improvement fund.** There is an account in the state special revenue
26 fund to be used by the department for increasing the efficiency of the property appraisal, assessment, and
27 taxation process through improvements in technology and administration. The department shall deposit fees
28 collected pursuant to ~~2-6-110(3)~~ [section 5] in the account."

29
30 **Section 42.** Section 15-62-209, MCA, is amended to read:

1 **"15-62-209. Access to records.** Information that identifies the contributor, account owner, or designated
2 beneficiary of a family education savings account is ~~exempt from the provisions of 2-6-102 and 2-6-104 [section~~
3 ~~3] and any other~~ CONFIDENTIAL INFORMATION AS DEFINED IN [SECTION 2] AND IS EXEMPT FROM ANY provision of law
4 permitting the public ~~inspection~~ examination or copying of documents. The provisions of this section may not
5 prevent the release of information about a specific designated beneficiary to a higher education institution at
6 which the designated beneficiary is enrolled or to which the designated beneficiary has applied for admission."

7
8 **Section 43.** Section 17-8-403, MCA, is amended to read:

9 **"17-8-403. False claims -- procedures -- penalties.** (1) Except as provided in subsection (2), a person
10 is liable to a governmental entity for a civil penalty of not less than \$5,500 and not more than \$11,000 for each
11 act specified in this section, plus three times the amount of damages that a governmental entity sustains, along
12 with expenses, costs, and attorney fees, if the person:

13 (a) knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;

14 (b) knowingly makes, uses, or causes to be made or used a false record or statement material to a false
15 or fraudulent claim;

16 (c) conspires to commit a violation of this subsection (1);

17 (d) has possession, custody, or control of public property or money used or to be used by the
18 governmental entity and knowingly delivers or causes to be delivered less than all of the property or money;

19 (e) is authorized to make or deliver a document certifying receipt of property used or to be used by the
20 governmental entity and, with the intent to defraud the governmental entity or to willfully conceal the property,
21 makes or delivers a receipt without completely knowing that the information on the receipt is true;

22 (f) knowingly buys or receives as a pledge of an obligation or debt public property of the governmental
23 entity from any person who may not lawfully sell or pledge the property;

24 (g) knowingly makes, uses, or causes to be made or used a false record or statement material to an
25 obligation to pay or transmit money or property to a governmental entity or knowingly conceals or knowingly and
26 improperly avoids or decreases an obligation to pay or transmit money or property to a governmental entity; or

27 (h) as a beneficiary of an inadvertent submission of a false or fraudulent claim to the governmental entity,
28 subsequently discovers the falsity of the claim or that the claim is fraudulent and fails to disclose the false or
29 fraudulent claim to the governmental entity within a reasonable time after discovery of the false or fraudulent
30 claim.

(2) In a civil action brought under 17-8-405 or 17-8-406, a court shall assess a civil penalty of not less than \$5,500 and not more than \$11,000 for each act specified in this section, plus not less than two times and not more than three times the amount of damages that a governmental entity sustains if the court finds all of the following:

(a) The person committing the act furnished the government attorney with all information known to that person about the act within 30 days after the date on which the person first obtained the information.

(b) The person fully cooperated with any investigation of the act by the government attorney.

(c) At the time that the person furnished the government attorney with information about the act, a criminal prosecution, civil action, or administrative action had not been commenced with respect to the act and the person did not have actual knowledge of the existence of an investigation into the act.

(3) A person who violates the provisions of this section is also liable to the governmental entity for the expenses, costs, and attorney fees of the civil action brought to recover the penalty or damages.

(4) Liability under this section is joint and several for any act committed by two or more persons.

(5) This section does not apply to claims, records, or statements made in relation to claims filed with the state compensation insurance fund under Title 39, chapter 71, or to claims, records, payments, or statements made under the tax laws contained in Title 15 or 16 or made to the department of natural resources and conservation under Title 77.

(6) (a) A court shall dismiss an action or claim brought under 17-8-406, unless opposed by the governmental entity or unless the action is brought by the government attorney or the person who is the original source of the information, if substantially the same allegations or transactions alleged in the action or claim were publicly disclosed in:

(i) a criminal, civil, or administrative hearing in which the governmental entity or an agent of the governmental entity is a party;

(ii) a state legislative, state auditor, or other governmental entity report, hearing, audit, or investigation;

or

(iii) the news media.

(b) The production of a record pursuant to Article II, section 9, of the Montana constitution or ~~Title 2, chapter 6, [section 3]~~ is not a public disclosure for purposes of this section.

(c) For purposes of this subsection (6), "original source" means an individual who:

(i) prior to a public disclosure, voluntarily disclosed to the governmental entity the information on which

1 the allegations or transactions in a claim are based; or

2 (ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations and
3 transactions and voluntarily provided the information to the governmental entity before filing an action.

4 (7) A person may not file a complaint or civil action brought under 17-8-406 against the state or an officer
5 or employee of the state arising from conduct by the officer or employee within the scope of the officer's or
6 employee's duties to the state unless the officer or employee has a financial interest in the conduct upon which
7 the complaint or civil action arises.

8 (8) The amount of the civil penalty set forth in subsections (1) and (2) must be adjusted for inflation in
9 a manner consistent with the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410.

10 (9) If a governmental entity does not intervene, the person who initiated the action has the same right
11 to conduct the action as the government attorney would have had if the governmental entity had intervened,
12 including the right to inspect government records and interview officers and employees of the governmental
13 entity."

14
15 **Section 44.** Section 18-4-126, MCA, is amended to read:

16 **"18-4-126. Public access to procurement information -- records -- retention.** (1) Procurement
17 information is a public ~~writing~~ record and must be available to the public as provided in ~~2-6-102~~ [section 3],
18 18-4-303, and 18-4-304.

19 (2) All procurement records must be retained, managed, and disposed of in accordance with ~~the state~~
20 ~~records management program, Title 2, chapter 6~~ the provisions of [sections 1 through 21].

21 (3) Written determinations required by this chapter must be retained in the appropriate official contract
22 file of the department or the purchasing agency administering the procurement in accordance with ~~the state~~
23 ~~records management program~~ [sections 1 through 21]."

24
25 **Section 45.** Section 19-2-403, MCA, is amended to read:

26 **"19-2-403. Powers and duties of board.** (1) The board shall administer the provisions of the chapters
27 enumerated in 19-2-302.

28 (2) The board may establish rules that it considers proper for the administration and operation of the
29 retirement systems and enforcement of the chapters under which each retirement system is established.

30 (3) The board shall establish uniform rules that are necessary to determine service credit for fractional

1 years of service.

2 (4) The board shall determine who are employees within the meaning of each retirement system. The
3 board is the sole authority for determining the conditions under which persons may become members of and
4 receive benefits under the retirement systems. A person whose job duties require proportional membership in
5 more than one retirement system is subject to the provisions of those systems.

6 (5) If fraud or error results in an employee or member being reported to the incorrect retirement system,
7 the board shall correct the error and adjust contributions as necessary.

8 (6) The board shall determine and may modify retirement benefits under the retirement systems. Benefits
9 may be paid only if the board decides, in its discretion, that the applicant is, under the provisions of the
10 appropriate retirement system, entitled to the benefits.

11 (7) In matters of board discretion under the systems, the board shall treat all persons in similar
12 circumstances in a uniform and nondiscriminatory manner.

13 (8) The board shall maintain records and accounts it determines necessary for the administration of the
14 retirement systems.

15 (9) The board shall enter into memoranda of understanding with the teachers' retirement system to
16 exchange retirement system-related confidential information regarding members, former members, or retirees.
17 A memorandum must state that:

18 (a) the information may be used only for reasons related to verifying appropriate pension plan
19 participation; and

20 (b) the requesting retirement system agrees to protect the confidentiality of the information and will
21 disclose the requested information only as necessary to conduct official business.

22 (10) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt actuarial
23 rates and rates of regular interest it determines appropriate for the administration of the retirement systems.

24 (11) The board shall review the sufficiency of benefits paid by the retirement system or plan and
25 recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under the
26 defined contribution plan that may be necessary for members and their beneficiaries to maintain a stable standard
27 of living.

28 (12) The board may implement third-party mailings under the provisions of ~~2-6-109~~ [section 11]. If
29 third-party mailings are implemented, the board shall adopt rules governing means of implementation, including
30 the specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees

generated by third-party mailings must be deposited in the appropriate retirement system fund for the benefit of participants of retirement systems or plans administered by the board.

(13) In discharging duties, the board, a member of the board, or an authorized representative of the board may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(14) The board may by rule or otherwise delegate to the board's executive director or any other staff member any of the powers or duties conferred by law upon the board except as otherwise provided by law and except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection (13) or the contested case procedure of the Montana Administrative Procedure Act.

(15) The board shall perform other duties and may exercise the powers concerning the defined contribution plan for plan members as provided in chapter 3, part 21, of this title."

Section 46. Section 19-17-111, MCA, is amended to read:

"19-17-111. Records information management. (1) The chief or designated official of a fire company shall maintain the records provided for in 19-17-108 and 19-17-110 for each active or inactive member of the fire company.

(2) Records must be maintained according to the state of Montana general records retention schedules, as published by the secretary of state pursuant to ~~Title 2, chapter 6~~ sections 13 through 21."

Section 47. Section 22-1-211, MCA, is amended to read:

"22-1-211. Definitions. As used in this part, the following definitions apply:

(1) "Depository library" means a library contracted by the state library under 22-1-212(2) to provide the general public access to state publications.

(2) "State agency" means any entity established or authorized by law to govern operations of the state, such as a state office, officer, department, division, section, bureau, board, commission, council, and agency of the state and all subdivisions of each.

(3) (a) "State publication" means any information originating in or produced by the authority of a state agency or at the total or partial expense of a state agency that the agency intends to distribute outside the

1 agency, regardless of format or medium, source or copyright, license, or trademark.

2 (b) The term does not include information intended only for distribution to contractors or grantees of the
3 agency, persons within the agency, or members of the public under ~~2-6-102~~ [section 3] or information produced
4 by a state agency that is intended strictly for internal administrative or operational purposes."
5

6 **Section 48.** Section 30-9a-522, MCA, is amended to read:

7 **"30-9A-522. Maintenance and destruction of records.** (1) Subject to the requirements of ~~Title 2,~~
8 ~~chapter 6, part 2~~ [sections 13 through 21], the filing office shall maintain a record of the information provided in
9 a filed financing statement for at least 1 year after the effectiveness of the filed financing statement has lapsed
10 under 30-9A-515 with respect to all secured parties of record. The record must be retrievable by using the name
11 of the debtor and:

12 (a) if the record was filed or recorded in the filing office described in 30-9A-501(1)(a), by using the file
13 number assigned to the initial financing statement to which the record relates and the date and time that the
14 record was filed or recorded; or

15 (b) if the record was filed or recorded in the filing office described in 30-9A-501(1)(b), by using the date
16 and time file number assigned to the initial financing statement to which the record relates.

17 (2) Except to the extent that a statute governing disposition of public records provides otherwise, the
18 filing office may immediately destroy any written record evidencing a financing statement. However, if the filing
19 office destroys a written record, it shall maintain another record of the financing statement that complies with
20 subsection (1)."
21

22 **Section 49.** Section 30-14-1603, MCA, is amended to read:

23 **"30-14-1603. Department to provide for no-call list database -- rules -- inclusion of national**
24 **database -- database not public record -- no cost to subscribers.** (1) The department shall provide for the
25 operation of a database containing a list of names and telephone numbers of residential subscribers who object
26 to receiving telephone solicitations. A residential subscriber may be listed in the database without cost to the
27 subscriber.

28 (2) The department shall promulgate rules and regulations governing the state no-call database that are
29 necessary and appropriate to fully implement the provisions of this part. The rules must include but are not limited
30 to rules specifying:

(a) the methods by which each residential subscriber may give notice to the department or a contractor designated by the department of the residential subscriber's objection to receiving telephone solicitations or the methods by which the residential subscriber may revoke the notice;

(b) the length of time for which a notice of objection is effective and the effect of a change of telephone number on the notice;

(c) the methods by which pertinent information may be collected and added to the no-call database;

(d) the methods for obtaining access to the no-call database by any person or entity desiring to make telephone solicitations if that person or entity is required to avoid calling the residential subscribers included in the no-call database;

(e) the cost to be assessed to a person or entity that is required to obtain access to the no-call database; and

(f) other matters relating to the no-call database that the department considers desirable.

(3) If the federal communications commission establishes a single national database of telephone numbers of residential subscribers who object to receiving telephone solicitations pursuant to 47 U.S.C. 227(c)(3), the department shall include that part of the single national database that relates to Montana in the no-call database established pursuant to this section.

(4) Information contained in the no-call database established pursuant to this section may be used only for the purpose of compliance with 30-14-1602 and this section or in a proceeding or action pursuant to 30-14-1605. The information ~~may not be considered a public record~~ IS CONFIDENTIAL INFORMATION AS DEFINED IN [SECTION 2] pursuant to Title 2, chapter 6 and is protected from disclosure under [section 3].

(5) In April, July, October, and January of each year, the department shall make a reasonable attempt to obtain subscription listings of residential subscribers in this state who have arranged to be included on any national no-call list and add those names to the state no-call list."

Section 50. Section 30-17-101, MCA, is amended to read:

"30-17-101. Electronic directory of Montana products. (1) (a) The department of commerce shall provide an electronic directory on the internet ~~or world wide web~~ of Montana businesses that market products qualifying as made in Montana or grown in Montana, as described in subsection (5).

(b) The department may make a decision on the appropriateness of listing a business on the electronic directory based upon the content or use of the products offered by the business.

(2) (a) The electronic directory may be compiled from eligible businesses that have contacted the department of commerce and that have agreed to be listed electronically on the internet or world wide web. Agreement by a company also means that the company grants permission for inclusion on a mailing distribution list pursuant to ~~2-6-109(1)~~ [section 11(1)].

(b) The department of commerce is not responsible for listing a company if that company has not contacted the department, has not agreed to a listing pursuant to subsection (2), or does not qualify as having products made in Montana or grown in Montana.

(3) The electronic directory may contain information allowing a potential customer to access directly a business listed in the directory by telephone, mail, or electronic links if the business works with the department of commerce to facilitate and maintain direct access.

(4) The department of commerce may not process orders for a business listed in the electronic directory and is not responsible for handling customer questions or complaints on behalf of a business listed in the electronic directory.

(5) For the purposes of this section, a product is considered made in Montana or grown in Montana if the product has 50% or greater value-added within the state.

(6) For the purposes of this section, "value-added" means a finished product that has been created, made, produced, or enhanced in Montana by Montana residents resulting in a 50% or greater value-added product."

Section 51. Section 32-11-107, MCA, is amended to read:

"32-11-107. Confidentiality. (1) The director and other employees of the department may not disclose information acquired by them in the discharge of their duties under this chapter except to the extent that disclosure of the information is required by law, other than the public records provisions of ~~Title 2, chapter 6,~~ [section 3], or is required by court order.

(2) Notwithstanding subsection (1), the department may disclose information that is confidential under subsection (1) if the department determines that disclosure of the information is necessary to promote the public interest. This subsection does not authorize the disclosure of information acquired by the department in the course of an examination of a licensee.

(3) A BIDCO may provide to a current or prospective creditor or shareholder of the BIDCO a copy of an examination report on the BIDCO made by the department under this chapter."

1

2 **Section 52.** Section 33-1-1403, MCA, is amended to read:

3 **"33-1-1403. Confidentiality.** (1) The statement of actuarial opinion must be provided with the annual
4 statement in accordance with the appropriate NAIC property and casualty annual statement instructions and is
5 a public writing, record within the meaning of ~~2-6-101~~ [section 2].

6 (2) (a) Actuarial reports, work papers, and actuarial opinion summaries retained by the commissioner
7 are trade secrets and are privileged. The materials must be given confidential treatment, are not subject to
8 subpoena, and are not subject to discovery, and the materials are not admissible in evidence in any private civil
9 litigation.

10 (b) Subsection (2)(a) does not limit the commissioner's authority to release the documents to the
11 actuarial board for counseling and discipline if the material is required for the board's professional disciplinary
12 proceedings and if the board establishes procedures satisfactory to the commissioner to preserve the
13 confidentiality of the documents.

14 (3) This section does not limit the commissioner's authority to use the actuarial reports, work papers,
15 actuarial opinion summaries, or other information in furtherance of any regulatory or legal action brought as part
16 of the commissioner's official duties.

17 (4) The commissioner and any person who receives actuarial reports, work papers, actuarial opinion
18 summaries, or other information while acting under the authority of the commissioner may not testify in any private
19 civil action concerning the documents or information subject to the provisions of subsection (2).

20 (5) To assist in the performance of the commissioner's duties, the commissioner may provide and
21 receive documents and information pursuant to 33-1-311.

22 (6) A waiver of privilege or claim of confidentiality in the actuarial reports, work papers, or actuarial
23 opinion summaries does not result from disclosure to the commissioner under this section or result from the
24 exchange of documents and information authorized in subsections (2)(b) and (5)."

25

26 **Section 53.** Section 33-28-108, MCA, is amended to read:

27 **"33-28-108. Examinations and investigations.** (1) (a) The commissioner or some competent person
28 appointed by the commissioner shall examine the affairs, transactions, accounts, records, and assets of each
29 captive insurance company as often as the commissioner considers advisable but no less frequently than every
30 5 years.

(b) The expenses and charges of the examination must be paid to the commissioner by the company or companies examined.

(2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

(3) Except as provided in subsection (4), all examination reports, preliminary examination reports or results, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company or upon court order.

(4) (a) Subsection (3) does not prevent the commissioner from using information obtained pursuant to this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in the commissioner's discretion, grant access to information obtained pursuant to this section to public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this state or any other state or agency of the federal government at any time, as long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(b) Captive risk retention group reports produced pursuant to the examination requirements of this section are public ~~writings~~ records as defined in ~~2-6-101~~ section 2.

(5) Except as provided in subsection (6), the provisions of this section apply to all business written by a captive insurance company.

(6) The examination for a branch captive insurance company may only be of branch business and branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107(2)(d) to the satisfaction of the commissioner.

(7) As a condition of licensure of a branch captive insurance company, the foreign captive insurance company shall grant authority to the commissioner for examination of the affairs of the foreign captive insurance company in the jurisdiction in which the foreign captive insurance company is formed."

Section 54. Section 46-23-110, MCA, is amended to read:

"46-23-110. Records -- dissemination. (1) The department and the board shall keep a record of the board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as provided in ~~2-6-102~~ section 3 and this section.

(2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure

1 under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information
2 in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

3 (3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board
4 staff member shall review the file requested and determine whether any document in the file is subject to a
5 personal privacy or safety interest that clearly exceeds the merits of public disclosure.

6 (4) The board may assert the privacy or safety interest and may withhold a document if the board
7 determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the
8 document's contents would compromise the safety, order, or security of a facility or the safety of facility personnel,
9 a member of the public, or an inmate of the facility if disclosed.

10 (5) The board may not withhold from public scrutiny under subsections (2) through (4) any more
11 information than is required to protect an individual privacy interest or a safety interest.

12 (6) The board may charge a reasonable fee for copying and inspecting records.

13 (7) The board may limit the time and place that the records may be inspected or copied."
14

15 **Section 55.** Section 53-21-1108, MCA, is amended to read:

16 **"53-21-1108. (Temporary) Disclosure of information -- confidentiality.** (1) The department shall
17 provide the Montana suicide review team with a copy of each death certificate filed with the state that lists suicide
18 as the cause of death. The department may not charge a fee for providing the death certificate.

19 (2) The suicide review team may request and may receive information from:

20 (a) a county coroner;

21 (b) the state medical examiner provided for in 44-3-201;

22 (c) an appropriate tribal official as designated by a tribe; and

23 (d) a health care provider as permitted in Title 50, chapter 16, part 5 or 8, or applicable federal law.

24 (3) Upon request of the suicide review team, a health care provider may disclose information about a
25 patient without the patient's authorization or without the authorization of the representative of a patient who is
26 deceased.

27 (4) The suicide review team shall maintain the confidentiality of the information received pursuant to
28 53-21-1105 through 53-21-1110.

29 (5) Materials and information obtained by the suicide review team are not subject to subpoena ~~or to the~~
30 ~~requirements related to public records under Title 2, chapter 6,~~ ARE CONFIDENTIAL INFORMATION AS DEFINED IN

1 [SECTION 2], and are protected from disclosure under [section 3]. (Terminates June 30, 2016--sec. 16, ch. 353,
2 L. 2013.)"

3
4 **Section 56.** Section 61-6-157, MCA, is amended to read:

5 **"61-6-157. Creation of online motor vehicle liability insurance verification system.** (1) The
6 department, in cooperation with the commissioner of insurance, shall establish an accessible common
7 carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or
8 operator with motor vehicle liability policy requirements under 61-6-103, 61-6-301, and 61-6-302 and facilitate
9 or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134.

10 (2) The department may contract with a private vendor or vendors to establish and maintain the system.

11 (3) The system must:

12 (a) send requests to insurers for verification of motor vehicle liability insurance using electronic services
13 established by the insurers, through the internet, world wide web, or a similar proprietary or common carrier
14 electronic system in compliance with the specifications and standards of the insurance industry committee on
15 motor vehicle administration and other applicable industry standards;

16 (b) include appropriate provisions to secure its data against unauthorized access and to maintain a
17 record of all requests and responses;

18 (c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement
19 personnel, county treasurers, and authorized agents under the provisions of 61-3-116;

20 (d) interface, wherever possible, with existing department and law enforcement systems;

21 (e) receive insurance data file transfers from insurers under specifications and standards set forth in
22 subsection (3)(a) to identify vehicles that are not covered by an insurance policy;

23 (f) provide a means by which low-volume insurers that are unable to deploy an online interface with the
24 system can report insurance policy data to the department or its designee for inclusion in the system;

25 (g) provide a means to track separately or distinguish motor vehicles that are subject to a certificate of
26 self-insurance under 61-6-143, a surety or indemnity bond under 61-6-137 or 61-6-301, or a deposit of cash or
27 securities under 61-6-138;

28 (h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled
29 maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed
30 by the department; and

(i) be used only for information-gathering and educational purposes until the completion of an appropriate testing period of not less than 6 months.

(4) The provisions of ~~Title 2, chapter 6, parts 1 and 2, [sections 1 through 20]~~ do not apply to the information contained in the verification system.

(5) Every insurer shall cooperate with the department in establishing and maintaining the system and shall provide access to motor vehicle liability policy status information to verify liability coverage:

(a) for a vehicle insured by that company that is registered in this state; and

(b) if available, for a vehicle that is insured by that company or that is operated in this state and that is the subject of an accident investigation regardless of where the vehicle is registered."

Section 57. Section 61-11-510, MCA, is amended to read:

"61-11-510. Prerequisites to disclosure. (1) Prior to the disclosure of personal information or highly restricted personal information, as provided in 61-11-507, 61-11-508, or 61-11-509, the department shall require the requester to complete and submit an application, in a form prescribed by the department, identifying the requester and specifying the statutorily recognized uses for which the personal information or highly restricted personal information is being sought.

(2) The department shall require the requester to provide identification acceptable to the department.

(3) (a) The department shall collect the appropriate fees paid by the requester and shall determine the amount of the fees in accordance with 61-3-101, 61-11-105, and this subsection (3), and as appropriate, in accordance with the terms of a contract between the department and the requester.

(b) The department shall ensure that fees established by policy or contract:

(i) recover the department's cost and expenses as provided in ~~2-6-110(2)~~ [section 4] and 61-3-101;

(ii) include an additional amount necessary to compensate the department for costs associated with developing and maintaining the database from which information is requested; and

(iii) incorporate, when applicable, the convenience fee established under 2-17-1103.

(c) Except as provided in 61-11-105(5)(b) and subsection (3)(d) of this section, the department shall charge a fee to any person, including a representative of a federal, state, or local government entity or member of the news media who requests information under this section.

(d) The department may not charge a fee for information requested by the governor's office of budget and program planning, the state tax appeal board, any legislative branch agency or committee, or any criminal

1 justice agency, as defined in 44-5-103."

2

3 **Section 58.** Section 81-2-115, MCA, is amended to read:

4 **"81-2-115. Confidentiality of information collected -- exceptions.** (1) Except as provided in
5 subsections (2) through (4), all information regarding the testing of any livestock that is owned by or in the
6 possession or custody of a livestock producer, livestock dealer as defined in 81-8-213, or livestock market as
7 defined in 81-8-213 that is collected by the department:

8 (a) must be held confidential by the department and its employees;

9 (b) is not a public ~~writing as described in 2-6-101 and is exempt from the public disclosure provisions~~
10 ~~of Title 2, chapter 6 record or public information as defined in [section 2] and is exempt from disclosure under~~
11 ~~[section 3];~~ and

12 (c) is not subject to discovery or introduction into evidence in any civil action.

13 (2) For the purposes of this section, "livestock" has the meaning provided in 81-2-702.

14 (3) The administrator, appointed pursuant to 81-1-301, may disclose information collected by the
15 department from individual livestock producers, livestock dealers, or livestock markets for the purposes of the
16 department's animal health programs whenever in the administrator's judgment the disclosure will assist in the
17 implementation of the animal health programs. The administrator may disclose the information to another
18 governmental entity pursuant to the conditions described in subsection (4) or if the governmental entity confirms
19 in writing that the entity will maintain the confidentiality of the information.

20 (4) Animal disease diagnostic tests that identify the owner of the animal tested may not be disclosed
21 unless:

22 (a) the administrator determines that disclosure is necessary to prevent the spread of an animal disease
23 or to protect the public health;

24 (b) the owner gives written permission to disclose the information;

25 (c) the information is disclosed in actions or administrative proceedings commenced under the provisions
26 of Title 81, chapter 2, 4, 5, 6, 8, 9, or 30;

27 (d) disclosure is required by subpoena or court order; or

28 (e) the information is disclosed to a law enforcement agency in connection with the investigation or
29 prosecution of criminal offenses.

30 (5) Upon release by the administrator or the board of any information to any other governmental entity

1 or to any person, the administrator shall:

2 (a) notify the person to whom the information refers or pertains that the release has been made and the
3 name of the governmental entity or person to whom the information was released; and

4 (b) provide to the person to whom the information refers a copy or summary of the information contained
5 in the release."
6

7 NEW SECTION. **Section 59. Repealer.** The following sections of the Montana Code Annotated are
8 repealed:

- 9 2-6-101. Definitions.
- 10 2-6-102. Citizens entitled to inspect and copy public writings.
- 11 2-6-103. Filing and copying fees.
- 12 2-6-104. Records of officers open to public inspection.
- 13 2-6-105. Removal of public records.
- 14 2-6-106. Possession of records.
- 15 2-6-107. Proceedings to compel delivery of records.
- 16 2-6-108. Attachment and warrant to enforce.
- 17 2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.
- 18 2-6-110. Electronic information and nonprint records -- public access -- fees.
- 19 2-6-111. Custody and reproduction of records by secretary of state.
- 20 2-6-112. Concealment of public hazards prohibited -- concealment of information related to settlement or
21 resolution of civil suits prohibited.
- 22 2-6-201. Purpose.
- 23 2-6-202. Definitions.
- 24 2-6-203. Secretary of state's powers and duties -- rulemaking authority.
- 25 2-6-204. State records committee approval.
- 26 2-6-205. Preservation of public records.
- 27 2-6-206. Protection and storage of essential records.
- 28 2-6-207. Certified copies of public records.
- 29 2-6-208. Records committee -- composition and meetings.
- 30 2-6-211. Transfer and storage of public records.

- 1 2-6-212. Disposal of public records.
2 2-6-213. Agency responsibilities and transfer schedules.
3 2-6-214. Department of administration -- powers and duties.
4 2-6-301. Definitions.
5 2-6-302. Official records management -- powers and duties.
6 2-6-303. Ownership of records -- transfer.
7 2-6-304. Outgoing officials -- records management duties.
8 2-6-307. Certified copies of official records.
9 2-6-401. Definitions.
10 2-6-402. Local government records committee -- creation.
11 2-6-403. Duties and responsibilities.
12 2-6-404. Rulemaking authority.
13 2-6-405. Destruction of local government public records prohibited prior to offering -- central registry --
14 notification.
15 2-6-501. Definitions.
16 2-6-502. Protection of social security numbers -- compliance.
17 2-6-503. Extensions.
18 2-6-504. Notification of breach of security of data system.

19
20 NEW SECTION. Section 60. Codification instruction. (1) [Sections 1 through 27] are intended to be
21 codified as an integral part of Title 2, chapter 6, and the provisions of Title 2, chapter 6, apply to [sections 1
22 through 27].

23 (2) ~~[Sections 28 and 29] are~~ [SECTION 28] IS intended to be codified as an integral part of Title 2, chapter
24 15, part 4, and the provisions of Title 2, chapter 15, part 4, apply to ~~[sections 28 and 29]~~ [SECTION 28].

25
26 COORDINATION SECTION. SECTION 61. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 74 AND
27 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 25 OF THIS ACT] MUST BE AMENDED AS FOLLOWS:

28 "NEW SECTION. Section 25. Definitions. As used in [sections 25 through 27], the following definitions
29 apply:

30 (1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of

1 computerized data that:

2 (a) materially compromises the security, confidentiality, or integrity of the personal information maintained
3 by a state agency or by a third party on behalf of a state agency; and

4 (b) causes or is reasonably believed to cause loss or injury to a person.

5 (2) "Individual" means a human being.

6 (3) "Person" means an individual, a partnership, a corporation, an association, or a public organization
7 of any character.

8 (4) (a) "Personal information" means a first name or first initial and last name in combination with any
9 one or more of the following data elements when the name and data elements are not encrypted:

10 (i) a social security number ~~or tax identification number~~;

11 (ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal
12 identification number or enrollment number, or a similar identification number issued by any state, the District of
13 Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; ~~or~~

14 (iii) an account number or credit or debit card number in combination with any required security code,
15 access code, or password that would permit access to a person's financial account;

16 (iv) medical record information as defined in 33-19-104;

17 (v) a taxpayer identification number; or

18 (vi) an identity protection personal identification number issued by the United States internal revenue
19 service.

20 (b) The term does not include publicly available information from federal, state, local, or tribal government
21 records.

22 (5) "Redaction" means the alteration of personal information contained within data to make all or a
23 significant part of the data unreadable. The term includes truncation, which means that no more than the last four
24 digits of an identification number are accessible as part of the data.

25 (6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee,
26 council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive
27 branch of state government. The term includes an employee of a state agency acting within the course and scope
28 of employment.

29 (b) The term does not include an entity of the judicial branch.

30 (7) "Third party" means:

- 1 (a) a person with a contractual obligation to perform a function for a state agency; or
2 (b) a state agency with a contractual or other obligation to perform a function for another state agency."

3
4 COORDINATION SECTION. SECTION 62. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 74 AND
5 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 27 OF THIS ACT] MUST BE AMENDED AS FOLLOWS:

6 "NEW SECTION. Section 27. Notification of breach of security of data system. (1) (a) Upon
7 discovery or notification of a breach of the security of a data system, a state agency that maintains computerized
8 data containing personal information in the data system shall make reasonable efforts to notify any person whose
9 unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized
10 person.

11 (b) The notification must be made without unreasonable delay, consistent with the legitimate needs of
12 law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the
13 breach and to restore the reasonable integrity of the data system.

14 (2) (a) A third party that receives personal information from a state agency and maintains that information
15 in a computerized data system to perform a state agency function shall:

16 (i) notify the state agency immediately following discovery of the breach if the personal information is
17 reasonably believed to have been acquired by an unauthorized person; and

18 (ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose
19 unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as
20 part of the breach. This notification must be provided in the same manner as the notification required in
21 subsection (1).

22 (b) A state agency notified of a breach by a third party has no independent duty to provide notification
23 of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a)
24 but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third
25 party its reasonable costs for providing the notice.

26 (3) The notification required by this section may be delayed if a law enforcement agency determines that
27 the notification will impede a criminal investigation and requests a delay of notification. The notification required
28 by this section must be made after the law enforcement agency determines that the notification will not
29 compromise the investigation.

30 (4) All state agencies and third parties to whom personal information is disclosed by a state agency shall

1 develop and maintain:

2 (a) an information security policy designed to safeguard personal information; and

3 (b) breach notification procedures that provide reasonable notice to individuals as provided in
4 subsections (1) and (2).

5 (5) A state agency or third party that is required to issue a notification to an individual pursuant to this
6 section shall simultaneously submit to the state's chief information officer at the department of administration and
7 to the attorney general's consumer protection office an electronic copy of the notification and a statement
8 providing the date and method of distribution of the notification. The electronic copy and statement of notification
9 must exclude any information that identifies the person who is entitled to receive notification. If a notification is
10 made to more than one person, a single copy of the notification that includes the number of people who were
11 notified must be submitted to the chief information officer and the consumer protection office."

12
13 COORDINATION SECTION. SECTION 63. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 448 AND
14 [THIS ACT] ARE PASSED AND APPROVED AND IF BOTH CONTAIN A SECTION THAT AMENDS 2-3-221, THEN HOUSE BILL NO.
15 448 IS VOID.

16
17 COORDINATION SECTION. SECTION 64. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 28 AND
18 [THIS ACT] ARE PASSED AND APPROVED, THEN THE REFERENCE IN HOUSE BILL NO. 28 TO "2-6-102, 2-6-110" IN [SECTION
19 1(1)(A)] MUST BE CHANGED TO "[SECTIONS 3 THROUGH 5 OF HOUSE BILL NO. 123]".

20
21 COORDINATION SECTION. SECTION 65. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 608 AND
22 [THIS ACT] ARE PASSED AND APPROVED, THEN THE REFERENCE IN HOUSE BILL NO. 608 TO "2-6-102" IN [SECTION 6(3)]
23 MUST BE CHANGED TO "[SECTION 3 OF HOUSE BILL NO. 123]".

24
25 COORDINATION SECTION. SECTION 66. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 399 AND
26 [THIS ACT] ARE PASSED AND APPROVED, THEN THE REFERENCE IN SENATE BILL NO. 399 TO "2-6-102 AND 2-6-104" IN
27 [SECTION 13] MUST BE CHANGED TO [SECTION 3 OF HOUSE BILL NO. 123]".

28
29 COORDINATION SECTION. SECTION 67. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 119 AND
30 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 8(1) OF HOUSE BILL NO. 119] MUST BE AMENDED AS FOLLOWS:

"(1) Information provided or developed under [sections 1 through 9] for an own risk and solvency assessment or ORSA summary report and in the possession of or control of the commissioner or any other person under [sections 1 through 9] is recognized as proprietary and containing trade secrets. The information is confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, ~~is not~~ admissible ~~as in~~ evidence in any civil action, and ~~is~~ not subject to subpoena, discovery, ~~the provisions of 2-6-102, or the provisions of~~ the Freedom of Information Act, 5 U.S.C. 552."

COORDINATION SECTION. SECTION 68. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 119 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 8(8) OF HOUSE BILL NO. 119] MUST BE AMENDED AS FOLLOWS:

"(8) Information in the possession of or control of the NAIC or a third-party consultant pursuant to [sections 1 through 9] is confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, is not admissible in evidence in any private civil action, and is not subject to ~~2-6-102~~, subpoena; or discovery."

COORDINATION SECTION. SECTION 69. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 119 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 15(1) OF HOUSE BILL NO. 119] MUST BE AMENDED AS FOLLOWS:

"(1) Except as provided in subsection (9), a company's confidential information is confidential information as provided in [section 2 of House Bill No. 123] ~~confidential~~ and privileged, ~~and~~ is not subject to subpoena; ~~or~~ discovery, ~~or public information requests under 2-6-102 or~~ and is not admissible in evidence in any private civil action."

COORDINATION SECTION. SECTION 70. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 119 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 31(1) OF HOUSE BILL NO. 119], AMENDING 33-2-116(1), MUST BE AMENDED AS FOLLOWS:

"(1) Documents, materials, and other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to 33-2-1115 and all information reported pursuant to 33-2-1104(3)(l), 33-2-1104(3)(m), 33-2-1111, and 33-2-1113 ~~must be~~ are confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, are not subject to ~~2-6-102~~, subpoena; or discovery, and are not admissible in evidence in any private civil action. The commissioner is authorized to use the documents,

1 materials, and other information to further any regulatory or legal action brought as a part of the commissioner's
2 official duties. The commissioner may not otherwise make the documents, materials, or other information public
3 without the prior written consent of the insurer to which the documents, materials, or other information pertains
4 unless the commissioner, after giving notice and an opportunity to be heard to the insurer and the insurer's
5 affiliates who would be affected, determines that the interest of policyholders, shareholders, or the public would
6 be served by the publication. On a determination that the interest of policyholders, shareholders, or the public
7 would be served, the commissioner may publish all or any part of the documents, materials, or other information
8 in a manner that the commissioner considers appropriate."

9
10 COORDINATION SECTION. SECTION 71. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 119 AND
11 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 31(7) OF HOUSE BILL NO. 119], AMENDING 33-2-1116(7), MUST
12 BE AMENDED AS FOLLOWS:

13 "(7) Documents, materials, and other information in the possession or control of the NAIC pursuant to
14 [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section are confidential by law
15 information as provided in [section 2 of House Bill No. 123] and privileged, are not admissible in evidence in a
16 private civil action, and are not subject to ~~2-6-102~~, subpoena, or discovery."

17
18 NEW SECTION. SECTION 72. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE
19 SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS
20 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
21 APPLICATIONS.

22 - END -

1 HOUSE BILL NO. 123

2 INTRODUCED BY D. JONES

3 BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND REORGANIZING MONTANA PUBLIC
6 RECORDS LAWS; UPDATING DEFINITIONS AND PROVIDING NEW DEFINITIONS; CLARIFYING ACCESS
7 TO PUBLIC INFORMATION; PROVIDING ~~PRIVACY~~ SAFETY AND SECURITY EXCEPTIONS; PROVIDING A
8 PROCEDURE FOR PUBLIC INFORMATION REQUESTS; ALLOWING FEES FOR PUBLIC INFORMATION
9 REQUESTS; ALLOWING SPECIAL FEES FOR CERTAIN INFORMATION; EMPHASIZING THE DISPOSITION
10 OF PUBLIC RECORDS ACCORDING TO RETENTION SCHEDULES; UPDATING THE REQUIREMENTS FOR
11 ESSENTIAL RECORDS; CLARIFYING THE PROHIBITION ON DISSEMINATING DISTRIBUTION LISTS;
12 REVISING THE RECORDS MANAGEMENT DUTIES OF THE SECRETARY OF STATE; REQUIRING
13 COLLABORATION BETWEEN THE DEPARTMENT OF ADMINISTRATION AND THE SECRETARY OF STATE;
14 EXPANDING THE MEMBERSHIP AND DUTIES OF THE STATE RECORDS COMMITTEE; PROVIDING
15 POWERS AND DUTIES OF THE MONTANA HISTORICAL SOCIETY FOR MANAGING HISTORIC RECORDS
16 AND CONSTITUTIONAL OFFICER RECORDS; CLARIFYING AGENCY RESPONSIBILITIES FOR RECORDS
17 MANAGEMENT; REVISING MEMBERSHIP AND DUTIES OF THE LOCAL GOVERNMENT RECORDS
18 COMMITTEE; REDUCING THE NOTICE REQUIREMENTS BEFORE DESTRUCTION OF CERTAIN LOCAL
19 GOVERNMENT RECORDS; UPDATING PROTECTIONS OF PERSONAL INFORMATION; PROVIDING
20 RULEMAKING AUTHORITY; AMENDING SECTIONS 2-3-212, 2-3-221, 2-3-301, 2-15-2017, 5-11-203, 7-4-2614,
21 7-5-2132, 7-5-4124, 7-11-1007, 13-1-303, 13-21-228, 15-1-103, 15-1-521, 15-62-209, 17-8-403, 18-4-126,
22 19-2-403, 19-17-111, 22-1-211, 30-9A-522, 30-14-1603, 30-17-101, 32-11-107, 33-1-1403, 33-28-108,
23 46-23-110, 53-21-1108, 61-6-157, 61-11-510, AND 81-2-115, MCA; AND REPEALING SECTIONS 2-6-101,
24 2-6-102, 2-6-103, 2-6-104, 2-6-105, 2-6-106, 2-6-107, 2-6-108, 2-6-109, 2-6-110, 2-6-111, 2-6-112, 2-6-201,
25 2-6-202, 2-6-203, 2-6-204, 2-6-205, 2-6-206, 2-6-207, 2-6-208, 2-6-211, 2-6-212, 2-6-213, 2-6-214, 2-6-301,
26 2-6-302, 2-6-303, 2-6-304, 2-6-307, 2-6-401, 2-6-402, 2-6-403, 2-6-404, 2-6-405, 2-6-501, 2-6-502, 2-6-503, AND
27 2-6-504, MCA."

28
29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

30

1 NEW SECTION. Section 1. Purpose. The purpose of this chapter is to ensure efficient and effective
2 management of public records and public information, in accordance with Article II, sections 8 through 10, of the
3 Montana constitution, for the state of Montana and its political subdivisions.

4
5 NEW SECTION. Section 2. Definitions. As used in this chapter, the following definitions apply:

6 (1) "CONFIDENTIAL INFORMATION" MEANS INFORMATION THAT IS ACCORDED CONFIDENTIAL STATUS OR IS
7 PROHIBITED FROM DISCLOSURE AS PROVIDED BY APPLICABLE LAW. THE TERM INCLUDES INFORMATION THAT IS:

8 (A) CONSTITUTIONALLY PROTECTED FROM DISCLOSURE BECAUSE AN INDIVIDUAL PRIVACY INTEREST CLEARLY
9 EXCEEDS THE MERITS OF PUBLIC DISCLOSURE;

10 (B) RELATED TO JUDICIAL DELIBERATIONS IN ADVERSARIAL PROCEEDINGS;

11 (C) NECESSARY TO MAINTAIN THE SECURITY AND INTEGRITY OF SECURE FACILITIES OR INFORMATION SYSTEMS
12 OWNED BY OR SERVING THE STATE; AND

13 (D) DESIGNATED AS CONFIDENTIAL BY STATUTE OR THROUGH JUDICIAL DECISIONS, FINDINGS, OR ORDERS.

14 ~~(1)~~(2) "Constitutional officer" means the governor, lieutenant governor, attorney general, secretary of
15 state, superintendent of public instruction, or auditor, who are the constitutionally designated and elected officials
16 of the executive branch of government.

17 (3) "CONSTITUTIONAL OFFICER RECORD" MEANS A PUBLIC RECORD PREPARED, OWNED, USED, OR RETAINED BY
18 A CONSTITUTIONAL OFFICER.

19 ~~(2)~~(4) "Essential record" means a public record immediately necessary to:

20 (a) respond to an emergency or disaster;

21 (b) begin recovery or reestablishment of operations during and after an emergency or disaster;

22 (c) protect the health, safety, and property of Montana citizens; or

23 (d) protect the assets, obligations, rights, history, and resources of a public agency, its employees and
24 customers, and Montana citizens.

25 ~~(3)~~(5) "Executive branch agency" means a department, board, commission, office, bureau, or other public
26 authority of the executive branch of state government.

27 ~~(4)~~(6) "Historic record" means a public record found by the state archivist to have permanent
28 administrative or historic value to the state.

29 ~~(5)~~(7) "Local government" means a city, town, county, consolidated city-county, SPECIAL DISTRICT, or
30 school district or a subdivision of one of these entities.

(6)(8) "Local government records committee" means the committee provided for in [section 22].

(7)(9) "Permanent record" means a public record designated for long-term or permanent retention.

(8)(10) "Public agency" means ~~any political subdivision, including a municipality, county, school district, LOCAL GOVERNMENT and any agency or department of the state of Montana~~ THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF MONTANA STATE GOVERNMENT, A POLITICAL SUBDIVISION OF THE STATE, A LOCAL GOVERNMENT, AND ANY AGENCY, DEPARTMENT, BOARD, COMMISSION, OFFICE, BUREAU, DIVISION, OR OTHER PUBLIC AUTHORITY OF THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCH OF THE STATE OF MONTANA.

(9)(11) "Public information" means information, ~~regardless of physical form or characteristics, relating to the conduct of the public's business and prepared, owned, used, or retained by any public agency~~ PREPARED, OWNED, USED, OR RETAINED BY ANY PUBLIC AGENCY RELATING TO THE TRANSACTION OF OFFICIAL BUSINESS, REGARDLESS OF FORM, EXCEPT FOR CONFIDENTIAL INFORMATION THAT MUST BE PROTECTED AGAINST PUBLIC DISCLOSURE UNDER APPLICABLE LAW.

(10)(12) "Public officer" means any person who has been elected or appointed as an officer of state or local government.

(11)(13) "Public record" means public information that is:

(a) fixed in any medium and is retrievable in usable form for future reference; and

(b) designated for retention by the state records committee, judicial branch, legislative branch, or local government records committee.

(12)(14) "Records manager" means an individual designated by a public agency to be responsible for coordinating the efficient and effective management of the agency's public records and information.

(13)(15) "State records committee" means the state records committee provided for in [section 15].

NEW SECTION. Section 3. Access to public information -- ~~privacy SAFETY~~ and security exceptions
-- MONTANA HISTORICAL SOCIETY EXCEPTION. (1) ~~Every~~ EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3), EVERY person has a right to examine and obtain a copy of any public information of this state, ~~except for information that is constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure or as otherwise expressly prohibited by statute.~~

(2) A public officer may withhold from public scrutiny information relating to ~~individual privacy or individual or public safety or the security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information may jeopardize~~ JEOPARDIZES the safety of facility

1 personnel, the public, students in a public school, or inmates of a facility. ~~Security features that may be protected~~
2 ~~under this section include but are not limited to architectural floor plans, blueprints, designs, drawings, building~~
3 ~~materials, alarm system plans, surveillance techniques, and facility staffing plans, including staff numbers and~~
4 ~~locations.~~ A public officer may not withhold from public scrutiny any more information than is required to protect
5 ~~an individual privacy interest or safety or security interest.~~ INDIVIDUAL OR PUBLIC SAFETY OR THE SECURITY OF PUBLIC
6 FACILITIES.

7 ~~(3) The provisions of this section do not apply to collections of the Montana historical society when~~
8 ~~restrictions on access have been imposed by collection creators or donors and the collections do not contain~~
9 ~~public information.~~

10 (3) THE MONTANA HISTORICAL SOCIETY MAY HONOR RESTRICTIONS IMPOSED BY PRIVATE RECORD DONORS AS
11 LONG AS THE RESTRICTIONS DO NOT APPLY TO PUBLIC INFORMATION. ALL RESTRICTIONS MUST EXPIRE NO LATER THAN
12 50 YEARS FROM THE DATE THE PRIVATE RECORD WAS RECEIVED. UPON THE EXPIRATION OF THE RESTRICTION, THE
13 PRIVATE RECORDS WILL BE MADE ACCESSIBLE TO THE PUBLIC.

14
15 NEW SECTION. **Section 4. Public information requests -- fees.** (1) A person may request public
16 information from a public agency. A public agency shall make the means of requesting public information
17 accessible to all persons.

18 (2) Upon receiving a request for public information, a public agency shall respond in a timely manner to
19 the requesting person ~~with an estimate of the time it will take to fulfill the request and any fees that may be~~
20 ~~charged pursuant to subsection (3) BY:~~

21 (A) MAKING THE PUBLIC INFORMATION MAINTAINED BY THE PUBLIC AGENCY AVAILABLE FOR INSPECTION AND
22 COPYING BY THE REQUESTING PERSON; OR

23 (B) PROVIDING THE REQUESTING PERSON WITH AN ESTIMATE OF THE TIME IT WILL TAKE TO FULFILL THE REQUEST
24 IF THE PUBLIC INFORMATION CANNOT BE READILY IDENTIFIED AND GATHERED AND ANY FEES THAT MAY BE CHARGED
25 PURSUANT TO SUBSECTION (3).

26 (3) A public agency may charge a fee for fulfilling a public information request. ~~The~~ EXCEPT WHERE A FEE
27 IS OTHERWISE PROVIDED FOR BY LAW, THE fee may not exceed the actual costs directly incident to fulfilling the
28 request in the most cost-efficient and timely manner possible. The fee must be documented. The fee may include
29 the time required to gather public information. THE PUBLIC AGENCY MAY REQUIRE THE REQUESTING PERSON TO PAY
30 THE ESTIMATED FEE PRIOR TO IDENTIFYING AND GATHERING THE REQUESTED PUBLIC INFORMATION.

1 (4) A PUBLIC AGENCY IS NOT REQUIRED TO ALTER OR CUSTOMIZE PUBLIC INFORMATION TO PROVIDE IT IN A FORM
2 SPECIFIED TO MEET THE NEEDS OF THE REQUESTING PERSON.

3 (5) IF A PUBLIC AGENCY AGREES TO A REQUEST TO CUSTOMIZE A RECORDS REQUEST RESPONSE, THE COSTS
4 OF THE CUSTOMIZATION MAY BE INCLUDED IN THE FEES CHARGED BY THE AGENCY.

5 ~~(4)~~(6) (a) The secretary of state is authorized to charge fees under this section. The fees must be set
6 and deposited in accordance with 2-15-405. The fees must be collected in advance.

7 (b) The secretary of state may not charge a fee to a member of the legislature or public officer for any
8 search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or
9 resolution passed by the legislature relative to the member's official duties.

10
11 NEW SECTION. Section 5. Special fees allowable for certain information. (1) In addition to the fee
12 allowed under [section 4], the department of revenue may charge an additional fee as reimbursement for the cost
13 of developing and maintaining the property valuation and assessment system database from which the
14 information is requested. The fee must be charged to persons, federal agencies, state agencies, and other
15 entities requesting the database or any part of the database from any department property valuation and
16 assessment system. The fee may not be charged to the governor's office of budget and program planning, the
17 state tax appeal board, or any legislative body or its members or staff.

18 (2) The department of revenue may not charge a fee for information provided from any department
19 property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other
20 governmental functions or to an individual taxpayer concerning the taxpayer's property.

21 (3) All fees received by the department of revenue under [section 4] and this section must be deposited
22 in the property value improvement fund as provided in 15-1-521.

23 (4) In accordance with the fees allowed under [section 4], the Montana historical society may charge fees
24 as approved by its board of trustees for copies of materials contained in its collections, based on documentable
25 curatorial duties as set forth in 22-3-101.

26
27 NEW SECTION. Section 6. Management of public records -- disposal and destruction. (1) (a) Each
28 public officer is responsible for properly managing the public records within the public officer's possession or
29 control through an established records management plan that satisfies the requirements of this chapter.

30 (b) Executive branch agencies shall manage public records according to the provisions of [sections 13

1 through 21] and the rules and guidelines established by the secretary of state, the state records committee, and
2 the Montana historical society.

3 (c) Local governments shall manage public records according to the provisions of [sections 22 through
4 24] and the rules and guidelines established by the secretary of state, the local government records committee,
5 and the Montana historical society.

6 (d) Pursuant to 5-2-503 and 5-11-105, the legislative council shall administer the records management
7 plan for the legislative branch. The legislative branch ~~may seek assistance from~~ SHALL COOPERATE WITH the
8 secretary of state, the state records committee, the local government records committee, and the Montana
9 historical society ~~regarding~~ IN THE development, implementation, and administration of the legislative records
10 management plan USING [SECTIONS 13 THROUGH 21] AS GUIDANCE.

11 (e) The judicial branch shall establish a records management plan. The judicial branch may seek
12 assistance from the secretary of state, the state records committee, the local government records committee, and
13 the Montana historical society regarding development, implementation, and administration of the judicial records
14 management plan.

15 (2) When a public record has reached the end of its retention period, the public officer shall ensure the
16 record is disposed of, destroyed, or transferred according to the provisions of this chapter.

17
18 NEW SECTION. Section 7. Preservation of public records -- possession of public records. (1) All
19 public records are and remain the property of the ~~state~~ PUBLIC AGENCY POSSESSING THE RECORDS. The public
20 records must be delivered by outgoing public officers and employees to their successors and must be preserved,
21 stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of
22 this chapter.

23 (2) If an outgoing public officer or employee refuses or fails to deliver to the current public officer or
24 employee any public records that pertain to that public office, the current public officer or employee may file a
25 complaint in the district court of the county where the outgoing public officer or employee resides, pursuant to the
26 Montana Rules of Civil Procedure, to compel the outgoing public officer or employee to deliver any public records
27 still in the outgoing public officer or employee's possession to the current public officer or employee.

28
29 NEW SECTION. Section 8. Written notice of denial -- civil action -- costs to ~~plaintiff~~ PREVAILING
30 PARTY in certain actions to enforce constitutional OR STATUTORY rights. (1) A public agency that denies an

1 information request to release information or records shall provide a written explanation for the denial.

2 (2) If a person who makes an information request receives a denial from a public agency and believes
3 that the denial violates the provisions of this chapter, the person may file a complaint pursuant to the Montana
4 Rules of Civil Procedure in district court.

5 (3) A ~~plaintiff~~ PERSON WHOSE ORIGINAL INFORMATION REQUEST WAS DENIED ALLEGING A DEPRIVATION OF
6 RIGHTS who prevails in an action brought in district court to enforce the ~~plaintiff's~~ PERSON'S rights under Article II,
7 section 9, of the Montana constitution OR UNDER THE PROVISIONS OF [SECTIONS 1 THROUGH 24] ~~may~~ MUST ~~MAY~~ be
8 awarded costs and reasonable attorney fees.

9
10 NEW SECTION. Section 9. Certified copies of records -- historic records and constitutional
11 officer records -- EXCEPTION. (1) A person may request a certified copy of a public record from a public agency
12 subject to the provisions of [section 3]. The public agency may charge a fee for the certified copy in accordance
13 with [section 4].

14 (2) A person may request a certified copy of a historic record or a constitutional officer record from the
15 Montana historical society subject to the provisions of [section 3]. The Montana historical society may charge a
16 fee for the certified copy in accordance with [sections 4 and 5(4)].

17 (3) A certified copy created by the Montana historical society of a historic record or a constitutional officer
18 record has the same force in law as if made by the original public agency that created the record.

19 (4) PURSUANT TO 2-15-403, THIS SECTION DOES NOT APPLY TO CERTIFIED COPIES PROVIDED BY THE SECRETARY
20 OF STATE FOR INFORMATION CONTAINED IN THE SECRETARY OF STATE'S CORPORATE AND UNIFORM COMMERCIAL CODE
21 ELECTRONIC FILING SYSTEM.

22
23 NEW SECTION. Section 10. Protection and storage of essential records. (1) To provide for the
24 continuity and preservation of civil government, each public officer shall designate certain public records as
25 essential records. The list must be continually maintained by the public officers to ensure its accuracy. Each
26 public officer shall collaborate with the appropriate continuity of government programs to ensure essential records
27 are identified and maintained.

28 (2) Each public officer shall ensure essential records are efficiently and effectively secured. Each public
29 officer shall look to the guidance provided by the state records committee or the local government records
30 committee in choosing appropriate methods to protect, store, back up, and recover essential records.

1
2 **NEW SECTION. Section 11. Prohibition on dissemination or use of distribution lists -- exceptions**

3 **-- penalties.** (1) Except as provided in subsections (3) through (9) ~~(10)~~, to protect the privacy of those who deal
4 with state and local government:

5 (a) a public agency may not distribute or sell a distribution list without first securing the permission of
6 those on the list; and

7 (b) a list of persons prepared by a public agency may not be used as a distribution list without first
8 securing the permission of those on the list except by that agency.

9 (2) As used in this section, "distribution list" means any list of personal contact information collected by
10 a public agency and used to facilitate unsolicited contact with individuals on the distribution list.

11 (3) This section does not prevent an individual from compiling a distribution list by examination of records
12 that are otherwise open to public inspection.

13 (4) This section does not apply to the lists of:

14 (a) registered electors and the new voter lists provided for in 13-2-115;

15 (b) the names of employees governed by Title 39, chapter 31;

16 (c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127;

17 (d) persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37,
18 chapters 1 through 4, 6 through 20, 22 through 29, 31, 34 through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through
19 69, 72, and 73; and Title 50, chapters 39, 72, 74, and 76; or

20 (e) persons certified as claims examiners under 39-71-320.

21 (5) This section does not prevent an agency from providing a list to persons providing prelicensing or
22 continuing education courses subject to state law or subject to Title 33, chapter 17.

23 (6) This section does not apply to the right of access by Montana law enforcement agencies.

24 (7) This section does not apply to ~~a corporate information list developed by the secretary of state~~
25 ~~containing the name, address, registered agent, officers, and directors of business, nonprofit, religious,~~
26 ~~professional, and close corporations authorized to do business in this state~~ THE SECRETARY OF STATE'S ELECTRONIC
27 FILING SYSTEM DEVELOPED PURSUANT TO 2-15-404 AND CONTAINING CORPORATE AND UNIFORM COMMERCIAL CODE
28 INFORMATION.

29 (8) This section does not apply to the use by the public employees' retirement board of a list of
30 board-administered retirement system participants to send materials on behalf of a retiree organization formed

for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the list is not released to the organization.

(9) THIS SECTION DOES NOT APPLY TO LISTS OF INDIVIDUALS WHO SIGN ATTENDANCE SHEETS OR SIGN-IN SHEETS AT A HEARING OR MEETING OF A PUBLIC AGENCY.

~~(9)~~(10) This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.

~~(10)~~(11) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.

NEW SECTION. Section 12. Concealment of public hazards prohibited -- concealment of information related to settlement or resolution of civil suits prohibited. (1) This section may be cited as the "Gus Barber Antisecrecy Act".

(2) As used in this section, "public hazard" means a device, instrument, or manufactured product or a condition of a device, instrument, or manufactured product that endangers public safety or health and has caused injury, as defined in 27-1-106.

(3) Except as otherwise provided in this section, a court may not enter a final order or judgment that has the purpose or effect of concealing a public hazard.

(4) Any portion of a final order or judgment entered or a written final settlement agreement entered into that has the purpose or effect of concealing a public hazard is contrary to public policy, is void, and may not be enforced. This section does not prohibit the parties from keeping the monetary amount of a written final settlement agreement confidential.

(5) A party to civil litigation may not request, as a condition to the production of discovery, that another party stipulate to an order that would violate this section.

(6) This section does not apply to:

(a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected pursuant to Title 30, chapter 14, part 4;

(b) other information that is confidential under state or federal law; or

(c) a health care provider, as defined in 27-6-103.

(7) Any affected person, including but not limited to a representative of the news media, has standing to contest a final order or judgment or written final settlement agreement that violates this section by motion in

1 the court in which the case was filed.

2 (8) The court shall examine the disputed information or materials in camera. If the court finds that the
3 information or materials or portions of the information or materials consist of information concerning a public
4 hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow
5 disclosure of only that portion of the information or materials necessary or useful to the public concerning the
6 public hazard.

7 (9) This section does not apply to a protective order issued under Rule 26(c) of the Montana Rules of
8 Civil Procedure or to any materials produced under the order. Materials used as exhibits may be publicly
9 disclosed pursuant to the provisions of subsections (7) and (8).

10
11 **NEW SECTION. Section 13. Secretary of state -- powers and duties -- rulemaking authority.** (1)

12 To ensure the proper management and safeguarding of public records, the secretary of state shall:

13 (a) establish guidelines based on accepted industry standards for managing public records;

14 (b) upon request of another executive branch agency, review, analyze, and make recommendations
15 regarding executive branch agency filing systems and procedures;

16 (c) operate the state records center for the purpose of storing and servicing public records not retained
17 in office space;

18 (d) provide information and training materials for all phases of efficient and effective records
19 management;

20 (e) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies;

21 (f) consult with the department of administration pursuant to [section 14];

22 (g) adopt rules regarding management of public records;

23 (h) adopt rules to implement the objectives of the state records committee and local government records
24 committee; and

25 (i) upon request, assist and advise in the establishment of records management procedures in the
26 legislative and judicial branches of state government and provide services similar to those available to the
27 executive branch.

28 (2) In addition to the requirements under subsection (1), the secretary of state may operate a central
29 microfilm unit to microfilm, on a cost recovery basis, all records approved for filming by the office of origin and
30 the secretary of state.

1
2 **NEW SECTION. Section 14. Department of administration -- powers and duties.** (1) To ensure
3 compatibility with the information technology systems of state government and to promote adherence to records
4 management principles and best practices, the department of administration, in consultation with the secretary
5 of state, shall establish standards for technological compatibility for state agencies for records management
6 equipment or systems used to electronically capture, store, or retrieve public records through computerized,
7 optical, or other electronic methods.

8 (2) The department of administration, in consultation with the secretary of state, shall approve all
9 acquisitions of executive branch agency records management equipment or systems used to electronically
10 capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure
11 compatibility with the standards developed under subsection (1).

12 (3) The department of administration is responsible for the management and operation of equipment,
13 systems, facilities, and processes integral to the department's central computer center and statewide
14 telecommunications system.

15
16 **NEW SECTION. Section 15. State records committee -- composition and meetings.** (1) There is
17 a state records committee composed of:

18 (a) representatives of:

19 (i) the department of administration;

20 (ii) the legislative auditor;

21 (iii) the attorney general;

22 (iv) the secretary of state;

23 (v) the Montana historical society;

24 (vi) THE GOVERNOR;

25 ~~(vi)~~(vii) the clerk of the supreme court; and

26 ~~(vii)~~(viii) the state chief information officer; and

27 (b) five members representing executive branch agencies designated pursuant to subsections (4) and
28 (5).

29 (2) The state records committee is administered by the secretary of state, and the secretary of state's
30 representative serves as the presiding officer for the committee.

(3) The committee members representing the agencies in subsection (1)(a) are designated by the heads of the respective agencies, and their appointments must be submitted in writing to the secretary of state. These committee members serve at the pleasure of the heads of their respective agencies.

(4) To implement subsection (1)(b), the committee members in subsection (1)(a) shall develop a rotation by which each of the executive branch agencies is designated to select a representative to serve a 2-year term as a committee member. The secretary of state shall adopt the rotation by administrative rule.

(5) The committee shall establish guidelines for the heads of executive branch agencies in appointing representatives to ensure the executive branch representatives provide a balance of perspectives from records management, information technology, and legal professionals.

(6) The committee shall meet at least quarterly.

(7) Committee members shall serve without additional salary but are entitled to reimbursement for travel expenses incurred while engaged in committee activities as provided for in 2-18-501 through 2-18-503. Expenses must be paid from the appropriations made for operation of their respective agencies.

NEW SECTION. Section 16. State records committee duties and responsibilities. The purpose of the state records committee is to act as a resource for executive branch agencies and others by staying at the forefront of records management best practices. The committee shall:

(1) gather and disseminate information on all phases of records management;

(2) advise the secretary of state in developing records management standards, guidelines, and training materials;

(3) develop guidelines to help agencies identify, maintain, and secure their essential records;

(4) serve as a forum for continuing collaboration among records management, information technology, and legal professionals throughout state agencies;

(5) make recommendations to the secretary of state for rulemaking regarding public records management;

(6) regularly review existing public records laws and make recommendations to the secretary of state regarding pursuing statutory change; and

(7) report biennially to the governor and, as provided in 5-11-210, the legislature on the activities of the committee, improvements in records management in state government, aspects of records management requiring further improvement, and committee recommendations and plans for further improvement.

1
2 **NEW SECTION. Section 17. Retention and disposition subcommittee -- approval required for**
3 **record disposal.** (1) There is a subcommittee of the state records committee to be known as the retention and
4 disposition subcommittee. The subcommittee is composed of the members of the state records committee who
5 represent the following offices:

6 (a) the department of administration;

7 (b) the legislative auditor;

8 (c) the attorney general;

9 (d) the secretary of state; and

10 (e) the Montana historical society.

11 (2) The subcommittee shall approve, modify, or disapprove the recommendations on retention schedules
12 of all public records.

13 (3) Except as provided in subsection (4), no public record may be disposed of or destroyed without the
14 unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction
15 must be submitted to the subcommittee by the agency concerned.

16 (4) The subcommittee may by unanimous approval establish categories of records for which no disposal
17 request is required if those records are retained for the designated retention period.

18
19 **NEW SECTION. Section 18. Historic records -- Montana historical society -- powers and duties.**
20 To ensure the proper management and safeguarding of historic records, the Montana historical society shall:

21 (1) establish and operate the state archives as authorized by appropriation for the purpose of storing,
22 preserving, and providing access to historic records transferred to the custody of the state archives;

23 (2) in cooperation with the secretary of state, the local government records committee, and the state
24 records committee, establish guidelines to inventory, catalog, retain, transfer, and provide access to all historic
25 records;

26 (3) maintain and enforce restrictions on access to historic records in the custody of the state archives
27 in accordance with the provisions of this part; and

28 (4) in accordance with the guidelines established pursuant to subsection (2), remove and destroy
29 duplicate records and records considered to have no historical value.

1 **NEW SECTION. Section 19. Constitutional officer records -- Montana historical society.** (1) All

2 constitutional officer records are the property of the state. The records must be delivered by outgoing
3 constitutional officers to their successors, who shall preserve, store, transfer, destroy, or dispose of and otherwise
4 manage them in accordance with the provisions of this section.

5 (2) Within 2 years after taking office as a constitutional officer, the current constitutional officer shall
6 consult with staff members of the Montana historical society and transfer to the Montana historical society all of
7 the constitutional officer records of the prior officeholder that are not necessary to the current operation of that
8 office and are considered worthy of preservation.

9 (3) An outgoing constitutional officer, in consultation with staff members of the Montana historical society,
10 shall review constitutional officer records and isolate any items of a purely personal nature. The personal papers
11 are not subject to this section, but they may be deposited along with the constitutional officer records at the
12 Montana historical society at the constitutional officer's discretion.

13 (4) An outgoing constitutional officer, in consultation with staff members of the Montana historical society,
14 may restrict access to certain segments of that officer's records. Restrictions may not be longer than the lifetime
15 of the depositing official. Restricted access may be imposed only to protect the confidentiality of personal
16 information contained in the records. Restricted access may not be imposed unless the demand of individual
17 privacy clearly exceeds the merits of public disclosure.

18 (5) Any question concerning the transfer or other status of constitutional officer records arising between
19 the state archives and a constitutional officer's office must be decided by a four-fifths vote of the members of the
20 retention and disposition subcommittee provided for in [section 17].

21
22 **NEW SECTION. Section 20. Permanent records -- agency responsibilities -- state records center.**

23 (1) All permanent records no longer required in the current operation of the office where they are made or kept
24 and all records of each agency or activity of the executive branch of state government that has been abolished
25 or discontinued must be maintained by the agency or transferred to the state records center in accordance with
26 approved records retention schedules.

27 (2) When records are transferred to the state records center, the transferring agency does not lose its
28 rights of control and access. The state records center is merely a custodian of the agency records, and access
29 is only by agency approval. Agency records for which the state records center acts as custodian may not be
30 subpoenaed from the state records center but must be subpoenaed from the agency to which the records belong.

1 The state records center may charge fees to cover the cost of records storage and servicing.

2 (3) Prior to transferring a permanent record to the state records center, the transferring agency shall
3 consult with the state archivist to determine whether the record is also a historic record. If the record is found to
4 be a historic record, it must be transferred to the Montana historical society in accordance with the provisions of
5 [section 18].

6
7 **NEW SECTION. Section 21. Agency records management duties.** Each department head shall
8 administer the executive branch agency's records management function and shall:

9 (1) coordinate all aspects of the agency records management function in accordance with procedures
10 prescribed by the secretary of state and the state records committee;

11 (2) analyze records inventory data and examine and compare all inventories within the agency to
12 minimize duplication of records;

13 (3) review and approve records disposal requests for submission to the retention and disposition
14 subcommittee;

15 (4) review established records retention schedules to ensure they are complete and current and make
16 recommendations to the secretary of state and the state records committee regarding minimal retentions for all
17 copies of public records within the agency;

18 (5) incorporate records management requirements into the agency information technology plan provided
19 for in 2-17-523;

20 (6) ensure that all agency employees receive appropriate and ongoing records management training;
21 and

22 (7) after considering guidance from the state records committee regarding records manager
23 qualifications, officially designate a qualified agency records manager to manage the functions provided for in
24 this section.

25
26 **NEW SECTION. Section 22. Local government records committee -- composition and meetings.**

27 (1) There is a local government records committee.

28 (2) The committee consists of the following eight members:

29 (a) the state archivist;

30 (b) the state records manager;

1 (c) a representative of the department of administration;

2 (d) two local government records managers appointed by the director of the Montana historical society;

3 (e) two local government records managers appointed by the secretary of state; and

4 (f) a person representing the Montana state genealogical society, appointed by the secretary of state,
5 who shall serve as a volunteer.

6 (3) Committee members subject to appointment shall hold office for a period of 2 years beginning
7 January 1 of the year following their appointment.

8 (4) Vacancies must be filled in the same manner they were filled originally.

9 (5) The committee shall elect a presiding officer and a vice presiding officer.

10 (6) The committee shall meet at least twice a year upon the call of the secretary of state or the presiding
11 officer.

12 (7) Except for the member appointed in subsection (2)(f), members of the committee not serving as part
13 of their compensated government employment must be compensated in accordance with 2-18-501 through
14 2-18-503 for each day in committee attendance. Members who serve as part of their compensated government
15 employment may not receive additional compensation, but the employing governmental entity shall furnish, in
16 accordance with the prevailing per diem rates, a reasonable allowance for travel and other expenses incurred
17 in attending committee meetings.

18
19 **NEW SECTION. Section 23. Local government records committee -- duties and responsibilities.**

20 The local government records committee shall:

21 (1) approve, modify, or disapprove proposals for local government records retention and disposition
22 schedules;

23 (2) appoint a subcommittee, known as the local government records destruction subcommittee, to handle
24 requests for disposal of records. The subcommittee consists of the state archivist, one of the local government
25 records managers, and the representative of the department of administration. Unless specifically authorized by
26 statute or by the retention and disposition schedule, a local government public record may not be destroyed or
27 otherwise disposed of without the unanimous approval of the subcommittee. When approval is required, a request
28 for the disposal or destruction of local government records must be submitted to the subcommittee by the entity
29 concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must
30 be referred to the local government records committee for approval. When approval is obtained from the

subcommittee or from the local government records committee for the disposal of a record, the local government records committee shall consider the inclusion of a new category of record for which a disposal request is not required and shall update the schedule as necessary.

(3) establish a retention and disposition schedule for categories of records for which a disposal request is not required. The local government records committee shall publish the retention and disposition schedules. Updates to those schedules, if any, must be published at least annually.

(4) develop guidance for local governments to identify, maintain, and secure their essential records;

(5) respond to requests for technical advice on matters relating to local government records; and

(6) provide leadership and coordination in matters affecting the records of multiple local governments.

NEW SECTION. Section 24. Disposal of local government public records prohibited prior to offering -- central registry -- notification. (1) A local government public record more than 10 years old may not be destroyed unless it is first offered to the Montana historical society, the state archives, Montana public and private universities and colleges, local historical museums, local historical societies, Montana genealogical groups, and the general public.

(2) The availability of a public record to be destroyed must be noticed to the entities listed in subsection (1) at least 60 days prior to disposal.

(3) (a) Claimed records must be given to entities in the order of priority listed in subsection (1).

(b) All expenses for the removal of claimed records must be paid by the entity claiming the records.

(c) The local government records committee shall establish procedures by which public records must be offered and claimed pursuant to this section.

(d) The local government records committee shall develop and maintain a central registry of the entities identified in subsection (1) who are interested in receiving notice of the potential destruction of public records pursuant to this section. The registry must be constructed to allow a local government entity to notify the local government records committee when the entity intends to destroy documents covered under this section and allows the local government records committee to subsequently notify the entities in the registry. A local government entity's notice to the local government records committee pursuant to this subsection (3)(d) and the records committee's notice to the entities listed on the registry fulfills the notification requirements of this section.

NEW SECTION. Section 25. Definitions. As used in [sections 25 through 27], the following definitions

- 1 apply:
- 2 (1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of
- 3 computerized data that:
- 4 (a) materially compromises the security, confidentiality, or integrity of the personal information maintained
- 5 by a state agency or by a third party on behalf of a state agency; and
- 6 (b) causes or is reasonably believed to cause loss or injury to a person.
- 7 (2) "Individual" means a human being.
- 8 (3) "Person" means an individual, a partnership, a corporation, an association, or a public organization
- 9 of any character.
- 10 (4) (a) "Personal information" means a first name or first initial and last name in combination with any
- 11 one or more of the following data elements when the name and data elements are not encrypted:
- 12 (i) a social security number or tax identification number;
- 13 (ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal
- 14 identification number or enrollment number, or a similar identification number issued by any state, the District of
- 15 Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; or
- 16 (iii) an account number or credit or debit card number in combination with any required security code,
- 17 access code, or password that would permit access to a person's financial account.
- 18 (b) The term does not include publicly available information from federal, state, local, or tribal government
- 19 records.
- 20 (5) "Redaction" means the alteration of personal information contained within data to make all or a
- 21 significant part of the data unreadable. The term includes truncation, which means that no more than the last four
- 22 digits of an identification number are accessible as part of the data.
- 23 (6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee,
- 24 council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive
- 25 branch of state government. The term includes an employee of a state agency acting within the course and scope
- 26 of employment.
- 27 (b) The term does not include an entity of the judicial branch.
- 28 (7) "Third party" means:
- 29 (a) a person with a contractual obligation to perform a function for a state agency; or
- 30 (b) a state agency with a contractual or other obligation to perform a function for another state agency.

1
2 **NEW SECTION. Section 26. Protection of personal information -- compliance -- extensions.** (1)

3 Each state agency that maintains the personal information of an individual shall develop procedures to protect
4 the personal information while enabling the state agency to use the personal information as necessary for the
5 performance of its duties under federal or state law.

6 (2) The procedures must include measures to:

7 (a) eliminate the unnecessary use of personal information;

8 (b) identify the person or state agency authorized to have access to personal information;

9 (c) restrict access to personal information by unauthorized persons or state agencies;

10 (d) identify circumstances in which redaction of personal information is appropriate;

11 (e) dispose of documents that contain personal information in a manner consistent with other record
12 retention requirements applicable to the state agency;

13 (f) eliminate the unnecessary storage of personal information on portable devices; and

14 (g) protect data containing personal information if that data is on a portable device.

15 (3) Except as provided in subsection (4), each state agency that is created after [the effective date of
16 this act] shall complete the requirements of this section within 1 year of its creation.

17 (4) The chief information officer provided for in 2-17-511 may grant an extension to any state agency
18 subject to the provisions of the Montana Information Technology Act provided for in Title 2, chapter 17, part 5.
19 The chief information officer shall inform the information technology board, the office of budget and program
20 planning, and the legislative finance committee of all extensions that are granted and of the rationale for granting
21 the extensions. The chief information officer shall maintain written documentation that identifies the terms and
22 conditions of each extension and the rationale for the extension.

23
24 **NEW SECTION. Section 27. Notification of breach of security of data system.** (1) (a) Upon
25 discovery or notification of a breach of the security of a data system, a state agency that maintains computerized
26 data containing personal information in the data system shall make reasonable efforts to notify any person whose
27 unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized
28 person.

29 (b) The notification must be made without unreasonable delay, consistent with the legitimate needs of
30 law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the

1 breach and to restore the reasonable integrity of the data system.

2 (2) (a) A third party that receives personal information from a state agency and maintains that information
3 in a computerized data system to perform a state agency function shall:

4 (i) notify the state agency immediately following discovery of the breach if the personal information is
5 reasonably believed to have been acquired by an unauthorized person; and

6 (ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose
7 unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as
8 part of the breach. This notification must be provided in the same manner as the notification required in
9 subsection (1).

10 (b) A state agency notified of a breach by a third party has no independent duty to provide notification
11 of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a)
12 but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third
13 party its reasonable costs for providing the notice.

14 (3) The notification required by this section may be delayed if a law enforcement agency determines that
15 the notification will impede a criminal investigation and requests a delay of notification. The notification required
16 by this section must be made after the law enforcement agency determines that the notification will not
17 compromise the investigation.

18 (4) All state agencies and third parties to whom personal information is disclosed by a state agency shall
19 develop and maintain:

20 (a) an information security policy designed to safeguard personal information; and

21 (b) breach notification procedures that provide reasonable notice to individuals as provided in
22 subsections (1) and (2).

23 (5) A STATE AGENCY OR A THIRD PARTY THAT IS REQUIRED TO ISSUE A NOTIFICATION TO AN INDIVIDUAL
24 PURSUANT TO THIS SECTION SHALL SIMULTANEOUSLY SUBMIT TO THE STATE'S CHIEF INFORMATION OFFICER AT THE
25 DEPARTMENT OF ADMINISTRATION AN ELECTRONIC COPY OF THE NOTIFICATION AND A STATEMENT PROVIDING THE DATE
26 AND METHOD OF DISTRIBUTION OF THE NOTIFICATION. THE ELECTRONIC COPY AND STATEMENT OF NOTIFICATION MUST
27 EXCLUDE ANY INFORMATION THAT IDENTIFIES THE PERSON WHO IS ENTITLED TO RECEIVE NOTIFICATION. IF A NOTIFICATION
28 IS MADE TO MORE THAN ONE PERSON, A SINGLE COPY OF THE NOTIFICATION THAT INCLUDES THE NUMBER OF PEOPLE WHO
29 WERE NOTIFIED MUST BE SUBMITTED TO THE CHIEF INFORMATION OFFICER.

1 **NEW SECTION. Section 28. Custody and reproduction of certain records by secretary of state.**

2 (1) The secretary of state is charged with the custody of:

3 (a) the enrolled copy of the constitution;

4 (b) all the acts and resolutions passed by the legislature;

5 (c) the journals of the legislature;

6 (d) the great seal;

7 (e) all ~~books, records, parchments, maps, and papers~~ DOCUMENTS kept or deposited in the secretary of
8 state's office pursuant to law.

9 (2) All records included in subsection (1) may be kept and reproduced in accordance with rules adopted
10 by the secretary of state in consultation with the state records committee provided for in [section 15].

11 (3) The state records committee may approve the disposal of original records once those records are
12 reproduced as provided for in subsection (2) unless disposal takes the form of transfer of records. Reproduction
13 is not necessary for transferred records. The reproduction or certified copy of a record may be used in place of
14 the original for all purposes, including as evidence in any court or proceeding, and has the same force and effect
15 as the original record.

16 ~~(4) The secretary of state shall prepare enlarged typed or photographic copies of the records whenever~~
17 ~~their production is required by law.~~

18 ~~—— (5) At least two copies must be made of all records reproduced as provided for in subsection (2). The~~
19 ~~secretary of state shall place one copy in a fireproof storage place and shall retain the other copy in the office with~~
20 ~~suitable equipment for displaying a record by projection to not less than its original size and for preparing copies~~
21 ~~of the record for persons entitled to copies.~~

22 ~~—— (6) All duplicates of records must be identified and indexed.~~

23
24 ~~—— **NEW SECTION. Section 29. Filing and copying fees -- exceptions.** (1) The secretary of state shall~~
25 ~~charge and collect fees for filing and copying services.~~

26 ~~—— (2) A member of the legislature or a state or county officer may not be charged for a search relative to~~
27 ~~matters pertaining to the duties of the member's or officer's office or for a certified copy of any law or resolution~~
28 ~~passed by the legislature relative to the member's or officer's official duties.~~

29 ~~—— (3) The secretary of state may not charge a fee, other than as authorized in [section 4], for providing~~
30 ~~public information.~~

1 ~~—— (4) Fees must be collected in advance and are not refundable.~~

2 ~~—— (5) Fees authorized by this section must be set and deposited in accordance with 2-15-405.~~

3
4 **SECTION 29. SECTION 2-3-212, MCA, IS AMENDED TO READ:**

5 **"2-3-212. Minutes of meetings -- public inspection.** (1) Appropriate minutes of all meetings required
6 by 2-3-203 to be open must be kept and must be available for inspection by the public. If an audio recording of
7 a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an
8 official recording is made, a written record of the meeting must also be made and must include the information
9 specified in subsection (2).

10 (2) Minutes must include without limitation:

11 (a) the date, time, and place of the meeting;

12 (b) a list of the individual members of the public body, agency, or organization who were in attendance;

13 (c) the substance of all matters proposed, discussed, or decided; and

14 (d) at the request of any member, a record of votes by individual members for any votes taken.

15 (3) If the minutes are recorded and designated as the official record, a log or time stamp for each main
16 agenda item is required for the purpose of providing assistance to the public in accessing that portion of the
17 meeting.

18 (4) Any time a presiding officer closes a public meeting pursuant to 2-3-203, the presiding officer shall
19 ensure that accurate and appropriate minutes MINUTES TAKEN IN COMPLIANCE WITH SUBSECTION (2) are kept of the
20 closed portion of the meeting. The minutes from the closed portion of the meeting may not be made available for
21 inspection except pursuant to a court order."

22
23 **SECTION 30. SECTION 2-3-221, MCA, IS AMENDED TO READ:**

24 **"2-3-221. Costs to plaintiff prevailing party in certain actions to enforce constitutional right to**
25 **know.** A plaintiff ~~person who alleges a violation and~~ ALLEGING A DEPRIVATION OF RIGHTS who prevails in an action
26 brought in district court to enforce the plaintiff's PERSON'S rights under Article II, section 9, of the Montana
27 constitution ~~may must~~ MAY be awarded costs and reasonable attorney fees."

28
29 **Section 31.** Section 2-3-301, MCA, is amended to read:

30 **"2-3-301. Agency to accept public comment electronically -- dissemination of electronic mail**

address and documents required -- prohibiting fees prohibited. (1) An agency that accepts public comment pursuant to a statute, administrative rule, or policy, including an agency adopting rules pursuant to the Montana Administrative Procedure Act or an agency to which 2-3-111 applies, shall provide for the receipt of public comment by the agency by use of an electronic mail system.

(2) As part of the agency action required by subsection (1), an agency shall disseminate by appropriate media its electronic mail address to which public comment may be made, including dissemination in:

(a) rulemaking notices published pursuant to the Montana Administrative Procedure Act;

(b) the telephone directory of state agencies published by the department of administration;

(c) any notice of agency existence, purpose, and operations published on the internet ~~world-wide-web,~~ popularly known as a "website", used by the agency; or

(d) any combination of the methods of dissemination provided in subsections (2)(a) through (2)(c).

(3) An agency shall, at the request of another agency or person and subject to ~~2-6-102~~ [section 3], disseminate the electronic documents to that agency or person by electronic mail in place of surface mail. Notification of the availability of an electronic notice of proposed rulemaking may be sent to an interested person as provided in 2-4-302(2)(a)(ii). An agency may not charge a fee for providing documents by electronic mail in accordance with this subsection.

(4) An agency that receives electronic mail pursuant to subsection (1) shall retain the electronic mail as either an electronic or a paper copy to the same extent that other comments are retained.

(5) As used in this section, "agency" means a department, division, bureau, office, board, commission, authority, or other agency of the executive branch of state government."

Section 32. Section 2-15-2017, MCA, is amended to read:

"2-15-2017. Domestic violence fatality review commission -- confidentiality of meetings and records -- criminal liability for unauthorized disclosure -- report to legislature. (1) There is a domestic violence fatality review commission in the department of justice.

(2) The commission shall:

(a) examine the trends and patterns of domestic violence-related fatalities in Montana;

(b) educate the public, service providers, and policymakers about domestic violence fatalities and strategies for intervention and prevention; and

(c) recommend policies, practices, and services that may encourage collaboration and reduce fatalities

1 due to domestic violence.

2 (3) The members of the commission, not to exceed 18, are appointed by the attorney general from
3 among the following disciplines:

4 (a) representatives from state departments that are involved in issues of domestic abuse;

5 (b) representatives of private organizations that are involved in issues of domestic abuse;

6 (c) medical and mental health care providers who are involved in issues of domestic abuse;

7 (d) representatives from law enforcement, the judiciary, and the state bar of Montana;

8 (e) representatives of Montana Indian tribes;

9 (f) other concerned citizens; and

10 (g) a member of the legislature who serves on either the house judiciary committee or the senate
11 judiciary committee.

12 (4) The members shall serve without compensation by the commission but are entitled to be reimbursed
13 for travel expenses as provided for in 2-18-501 through 2-18-503, and members who are full-time salaried officers
14 or employees of this state or of any political subdivision of this state are entitled to their regular compensation.
15 The provisions of 2-15-122 do not apply to the commission.

16 (5) The commission shall review closed domestic homicide cases selected by the attorney general to
17 provide the commission with the best opportunity to fulfill its duties under this section.

18 (6) Upon written request from the commission, a person who possesses information or records that are
19 necessary and relevant to a domestic violence fatality review shall, as soon as practicable, provide the
20 commission with the information and records. A person who provides information or records upon request of the
21 commission is not criminally or civilly liable for providing information or records in compliance with this section.

22 (7) The meetings and proceedings of the commission are confidential and are exempt from the
23 provisions of Title 2, chapter 3.

24 (8) The records of the commission are confidential INFORMATION AS DEFINED IN [SECTION 2] and are
25 ~~exempt from the provisions of Title 2, chapter 6 protected from disclosure under [section 3]~~. The records are not
26 subject to subpoena, discovery, or introduction into evidence in a civil or criminal action unless the records are
27 reviewed by a district court judge and ordered to be provided to the person seeking access. The commission shall
28 disclose conclusions and recommendations upon request but may not disclose information, records, or data that
29 are otherwise confidential. The commission may not use the information, records, or data for purposes other than
30 those designated by subsections (2)(a) and (2)(c).

(9) The commission may require any person appearing before it to sign a confidentiality agreement created by the commission in order to maintain the confidentiality of the proceedings. In addition, the commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(10) A member of the commission who knowingly uses information obtained pursuant to subsection (6) for a purpose not authorized in subsection (2) or who discloses information in violation of subsection (8) is subject to a civil penalty of not more than \$500.

(11) The commission shall report its findings and recommendations in writing to the law and justice interim committee, the attorney general, the governor, and the chief justice of the Montana supreme court prior to each regular legislative session. The report must be made available to the public through the office of the attorney general. The commission may issue data or other information periodically, in addition to the biennial report."

Section 33. Section 5-11-203, MCA, is amended to read:

"5-11-203. Distribution of session laws -- ~~inspection~~ examination of journals. (1) Immediately after the session laws are published, the legislative services division shall distribute them.

(2) The legislative services division shall make the house and senate journals available for ~~inspection~~ examination or copying by the public as provided in ~~Title 2, chapter 6, part 1~~ sections 1 through 12. The legislative services division may publish the journals in an electronic format.

(3) The following entities may receive the number of copies of session laws listed at no cost:

(a) to the library of congress, eight copies;

(b) to the state library, two copies;

(c) to the state historical library, two copies;

(d) to the state law librarian, four copies for the use of the library and additional copies as may be required for exchange with libraries and institutions maintained by other states and territories and public libraries;

(e) to the library of each custodial institution, one copy;

(f) to each Montana member of congress, each United States district judge in Montana, each of the judges of the state supreme and district courts, and each of the state officers as defined in 2-2-102, one copy;

(g) to any agency, board, commission, or office of the state, other than a state officer, and to any other subdivision of the state upon request and approval by the legislative council, one copy;

(h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house of representatives from the session at which the laws were adopted, one copy;

(i) to each of the community college districts of the state, as defined in 20-15-101, and each unit of the Montana university system, one copy;

(j) to each county clerk, one copy for the use of the county; and

(k) to each county attorney and to each clerk of a district court, one copy."

Section 34. Section 7-4-2614, MCA, is amended to read:

"7-4-2614. Records of certificates of discharge from military service. (1) It is the duty of the county clerk of any county of this state to record, without charge and in a book kept for that purpose, the certificate of discharge of an honorably discharged person who served with the United States forces upon that person's request. It is not the clerk's duty to file the certificate.

(2) A record of a military discharge certificate is confidential INFORMATION AS DEFINED IN [SECTION 2] and ~~exempt from the provisions of Title 2, chapter 6 is protected from disclosure under [section 3]~~. A military discharge certificate may be disclosed only to:

(a) the service member for whom the certificate was recorded;

(b) if the service member is deceased, the next of kin of the service member or a mortuary, as defined in 10-2-111, for the purposes of securing the burial benefits to which the service member is entitled;

(c) a veterans' service officer or a veterans' service organization, as defined in 10-2-111;

(d) the veterans' affairs division of the Montana department of military affairs; or

(e) any person with written authorization from the service member or from the next of kin of the service member, if the service member is deceased.

(3) If an original discharge certificate was inadvertently filed and the county clerk still retains the certificate in its original form, upon the written request of the service member or of the service member's next of kin if the service member is deceased, the clerk shall return the filed certificate to the service member or to the service member's next of kin if the service member is deceased.

(4) For purposes of this section:

(a) "file" means to store in original form; and

(b) "record" means to make and keep a copy from which a certified original copy can be reproduced."

1 **Section 35.** Section 7-5-2132, MCA, is amended to read:

2 **"7-5-2132. Destruction of county records.** Upon the order of the board of county commissioners and
3 with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~
4 [section 23], a county officer may destroy records that have met the retention period, as contained in the local
5 government records retention and disposition schedules, and that are no longer needed by the office."
6

7 **Section 36.** Section 7-5-4124, MCA, is amended to read:

8 **"7-5-4124. Destruction of municipal records.** Upon the order of the city or town council or commission
9 and with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~
10 [section 23], a city or town officer may destroy records that have met the retention period, as contained in the local
11 government records retention and disposition schedules, and that are no longer needed by the office."
12

13 **Section 37.** Section 7-11-1007, MCA, is amended to read:

14 **"7-11-1007. Public hearing -- resolution of intention to create special district.** (1) The governing
15 body shall hold at least one public hearing concerning the creation of a proposed special district prior to the
16 passage of a resolution of intention to create the special district. A resolution of intention to create a special
17 district may be based upon a decision of the governing body as provided in 7-11-1003(1)(a) or upon a petition
18 that contains the required number of signatures as provided in 7-11-1003(1)(b).

19 (2) The resolution must designate:

20 (a) the proposed name of the special district;

21 (b) the necessity for the proposed special district;

22 (c) a general description of the territory or lands to be included within the proposed special district, giving
23 the boundaries of the proposed special district;

24 (d) the general character of any proposed improvements and the proposed location for the proposed
25 program or improvements;

26 (e) the estimated cost and method of financing the proposed program or improvements;

27 (f) any requirements specifically applicable to the type of special district;

28 (g) whether the proposed special district would be administered by the governing body or an appointed
29 or elected board; and

30 (h) the duration of the proposed special district.

(3) (a) The governing body shall publish notice of passage of the resolution of intention to create a special district as provided in 7-1-2121 and 7-1-2122 or 7-1-4127 and 7-1-4129, as applicable. The notice must contain a notice of a hearing and the time and place where the hearing will be held.

(b) At the same time that notice is published pursuant to subsection (3)(a), the governing body shall provide a list of those properties subject to potential assessment, fees, or taxation under the creation of the proposed special district. The list may not be distributed or sold for use as a ~~mailing distribution~~ list in accordance with ~~2-6-109~~ [section 11].

(c) A copy of the notice described in subsection (3)(a) must be mailed to each owner or purchaser under contract for deed of the property included on the list referred to in subsection (3)(b) as shown by the current property tax record maintained by the department of revenue for the county."

Section 38. Section 13-1-303, MCA, is amended to read:

"13-1-303. Disposition of ballots and other election materials. (1) (a) Except for a federal election and as provided in 13-15-301(2), the voted ballots, detached stubs, unvoted ballots, and unused ballots from an election must be kept in the unopened packages received from the election judges for a period of 12 months. The packages may be opened only when an order for opening is given by the proper official either for a recount procedure or to process provisional ballots.

(b) The voted ballots, detached stubs, unvoted ballots, and unused ballots from a federal election must be retained in the unopened packages received from the election judges for a period of 22 months. The packages may be opened only as provided in subsection (1)(a) or for a postelection random-sample audit of vote-counting machines.

(c) An election administrator may dispose of the ballots as provided in subsection (2) if after the time periods provided for in this subsection (1), there is no:

(i) contest begun;

(ii) recount pending; or

(iii) appeal of a decision relating to a contest, a recount, or a postelection random-sample audit.

(2) Each election administrator shall prepare a plan for retention and destruction of election records in the county according to the retention schedules established by the local government records committee provided for in ~~2-6-402~~ [section 22]."

1 **Section 39.** Section 13-21-228, MCA, is amended to read:

2 **"13-21-228. Use of voter's e-mail address.** (1) A local election official shall request an e-mail address
3 from each covered voter who registers to vote after January 1, 2014.

4 (2) An e-mail address provided by a covered voter may not be made available to the public or any
5 individual or organization other than a state or local election official and is ~~exempt from disclosure under Title 2,~~
6 ~~chapter 6 [section 3]~~ CONFIDENTIAL INFORMATION AS DEFINED IN [SECTION 2].

7 (3) The address may be used only for official communication with the voter about the voting process,
8 including transmitting military-overseas ballots and election materials if the voter has requested electronic
9 transmission and verifying the voter's mailing address and physical location."

10
11 **Section 40.** Section 15-1-103, MCA, is amended to read:

12 **"15-1-103. Disposal of tax records -- procedure.** (1) Notwithstanding any other provisions of law, the
13 department may dispose of tax records more than 3 years old if the records do not have any further value or as
14 provided in subsection (3).

15 (2) Authorization for disposal of tax records must be made by the director of the department or authorized
16 employees of the department. A copy of the authorization and authenticated list of the records must be
17 maintained by the department.

18 (3) The department may dispose of its original tax records after those records have been reproduced
19 in accordance with rules adopted by the secretary of state in consultation with the state records committee
20 provided for in ~~2-6-208~~ [section 15]. The department shall maintain the reproduction as the public record. The
21 reproduction or certified copy of the reproduction may be used in place of the department's original in any court
22 or proceeding and has the same force and effect as the department's original record."

23
24 **Section 41.** Section 15-1-521, MCA, is amended to read:

25 **"15-1-521. Property valuation improvement fund.** There is an account in the state special revenue
26 fund to be used by the department for increasing the efficiency of the property appraisal, assessment, and
27 taxation process through improvements in technology and administration. The department shall deposit fees
28 collected pursuant to ~~2-6-110(3)~~ [section 5] in the account."

29
30 **Section 42.** Section 15-62-209, MCA, is amended to read:

1 **"15-62-209. Access to records.** Information that identifies the contributor, account owner, or designated
2 beneficiary of a family education savings account is ~~exempt from the provisions of 2-6-102 and 2-6-104 [section~~
3 ~~3] and any other~~ CONFIDENTIAL INFORMATION AS DEFINED IN [SECTION 2] AND IS EXEMPT FROM ANY provision of law
4 permitting the public ~~inspection~~ examination or copying of documents. The provisions of this section may not
5 prevent the release of information about a specific designated beneficiary to a higher education institution at
6 which the designated beneficiary is enrolled or to which the designated beneficiary has applied for admission."

7
8 **Section 43.** Section 17-8-403, MCA, is amended to read:

9 **"17-8-403. False claims -- procedures -- penalties.** (1) Except as provided in subsection (2), a person
10 is liable to a governmental entity for a civil penalty of not less than \$5,500 and not more than \$11,000 for each
11 act specified in this section, plus three times the amount of damages that a governmental entity sustains, along
12 with expenses, costs, and attorney fees, if the person:

13 (a) knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;

14 (b) knowingly makes, uses, or causes to be made or used a false record or statement material to a false
15 or fraudulent claim;

16 (c) conspires to commit a violation of this subsection (1);

17 (d) has possession, custody, or control of public property or money used or to be used by the
18 governmental entity and knowingly delivers or causes to be delivered less than all of the property or money;

19 (e) is authorized to make or deliver a document certifying receipt of property used or to be used by the
20 governmental entity and, with the intent to defraud the governmental entity or to willfully conceal the property,
21 makes or delivers a receipt without completely knowing that the information on the receipt is true;

22 (f) knowingly buys or receives as a pledge of an obligation or debt public property of the governmental
23 entity from any person who may not lawfully sell or pledge the property;

24 (g) knowingly makes, uses, or causes to be made or used a false record or statement material to an
25 obligation to pay or transmit money or property to a governmental entity or knowingly conceals or knowingly and
26 improperly avoids or decreases an obligation to pay or transmit money or property to a governmental entity; or

27 (h) as a beneficiary of an inadvertent submission of a false or fraudulent claim to the governmental entity,
28 subsequently discovers the falsity of the claim or that the claim is fraudulent and fails to disclose the false or
29 fraudulent claim to the governmental entity within a reasonable time after discovery of the false or fraudulent
30 claim.

(2) In a civil action brought under 17-8-405 or 17-8-406, a court shall assess a civil penalty of not less than \$5,500 and not more than \$11,000 for each act specified in this section, plus not less than two times and not more than three times the amount of damages that a governmental entity sustains if the court finds all of the following:

(a) The person committing the act furnished the government attorney with all information known to that person about the act within 30 days after the date on which the person first obtained the information.

(b) The person fully cooperated with any investigation of the act by the government attorney.

(c) At the time that the person furnished the government attorney with information about the act, a criminal prosecution, civil action, or administrative action had not been commenced with respect to the act and the person did not have actual knowledge of the existence of an investigation into the act.

(3) A person who violates the provisions of this section is also liable to the governmental entity for the expenses, costs, and attorney fees of the civil action brought to recover the penalty or damages.

(4) Liability under this section is joint and several for any act committed by two or more persons.

(5) This section does not apply to claims, records, or statements made in relation to claims filed with the state compensation insurance fund under Title 39, chapter 71, or to claims, records, payments, or statements made under the tax laws contained in Title 15 or 16 or made to the department of natural resources and conservation under Title 77.

(6) (a) A court shall dismiss an action or claim brought under 17-8-406, unless opposed by the governmental entity or unless the action is brought by the government attorney or the person who is the original source of the information, if substantially the same allegations or transactions alleged in the action or claim were publicly disclosed in:

(i) a criminal, civil, or administrative hearing in which the governmental entity or an agent of the governmental entity is a party;

(ii) a state legislative, state auditor, or other governmental entity report, hearing, audit, or investigation;

or

(iii) the news media.

(b) The production of a record pursuant to Article II, section 9, of the Montana constitution or ~~Title 2, chapter 6, [section 3]~~ is not a public disclosure for purposes of this section.

(c) For purposes of this subsection (6), "original source" means an individual who:

(i) prior to a public disclosure, voluntarily disclosed to the governmental entity the information on which

1 the allegations or transactions in a claim are based; or

2 (ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations and
3 transactions and voluntarily provided the information to the governmental entity before filing an action.

4 (7) A person may not file a complaint or civil action brought under 17-8-406 against the state or an officer
5 or employee of the state arising from conduct by the officer or employee within the scope of the officer's or
6 employee's duties to the state unless the officer or employee has a financial interest in the conduct upon which
7 the complaint or civil action arises.

8 (8) The amount of the civil penalty set forth in subsections (1) and (2) must be adjusted for inflation in
9 a manner consistent with the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410.

10 (9) If a governmental entity does not intervene, the person who initiated the action has the same right
11 to conduct the action as the government attorney would have had if the governmental entity had intervened,
12 including the right to inspect government records and interview officers and employees of the governmental
13 entity."

14
15 **Section 44.** Section 18-4-126, MCA, is amended to read:

16 **"18-4-126. Public access to procurement information -- records -- retention.** (1) Procurement
17 information is a public ~~writing~~ record and must be available to the public as provided in ~~2-6-102~~ [section 3],
18 18-4-303, and 18-4-304.

19 (2) All procurement records must be retained, managed, and disposed of in accordance with ~~the state~~
20 ~~records management program, Title 2, chapter 6~~ the provisions of [sections 1 through 21].

21 (3) Written determinations required by this chapter must be retained in the appropriate official contract
22 file of the department or the purchasing agency administering the procurement in accordance with ~~the state~~
23 ~~records management program~~ [sections 1 through 21]."

24
25 **Section 45.** Section 19-2-403, MCA, is amended to read:

26 **"19-2-403. Powers and duties of board.** (1) The board shall administer the provisions of the chapters
27 enumerated in 19-2-302.

28 (2) The board may establish rules that it considers proper for the administration and operation of the
29 retirement systems and enforcement of the chapters under which each retirement system is established.

30 (3) The board shall establish uniform rules that are necessary to determine service credit for fractional

1 years of service.

2 (4) The board shall determine who are employees within the meaning of each retirement system. The
3 board is the sole authority for determining the conditions under which persons may become members of and
4 receive benefits under the retirement systems. A person whose job duties require proportional membership in
5 more than one retirement system is subject to the provisions of those systems.

6 (5) If fraud or error results in an employee or member being reported to the incorrect retirement system,
7 the board shall correct the error and adjust contributions as necessary.

8 (6) The board shall determine and may modify retirement benefits under the retirement systems. Benefits
9 may be paid only if the board decides, in its discretion, that the applicant is, under the provisions of the
10 appropriate retirement system, entitled to the benefits.

11 (7) In matters of board discretion under the systems, the board shall treat all persons in similar
12 circumstances in a uniform and nondiscriminatory manner.

13 (8) The board shall maintain records and accounts it determines necessary for the administration of the
14 retirement systems.

15 (9) The board shall enter into memoranda of understanding with the teachers' retirement system to
16 exchange retirement system-related confidential information regarding members, former members, or retirees.
17 A memorandum must state that:

18 (a) the information may be used only for reasons related to verifying appropriate pension plan
19 participation; and

20 (b) the requesting retirement system agrees to protect the confidentiality of the information and will
21 disclose the requested information only as necessary to conduct official business.

22 (10) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt actuarial
23 rates and rates of regular interest it determines appropriate for the administration of the retirement systems.

24 (11) The board shall review the sufficiency of benefits paid by the retirement system or plan and
25 recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under the
26 defined contribution plan that may be necessary for members and their beneficiaries to maintain a stable standard
27 of living.

28 (12) The board may implement third-party mailings under the provisions of ~~2-6-109~~ [section 11]. If
29 third-party mailings are implemented, the board shall adopt rules governing means of implementation, including
30 the specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees

generated by third-party mailings must be deposited in the appropriate retirement system fund for the benefit of participants of retirement systems or plans administered by the board.

(13) In discharging duties, the board, a member of the board, or an authorized representative of the board may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(14) The board may by rule or otherwise delegate to the board's executive director or any other staff member any of the powers or duties conferred by law upon the board except as otherwise provided by law and except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection (13) or the contested case procedure of the Montana Administrative Procedure Act.

(15) The board shall perform other duties and may exercise the powers concerning the defined contribution plan for plan members as provided in chapter 3, part 21, of this title."

Section 46. Section 19-17-111, MCA, is amended to read:

"19-17-111. Records information management. (1) The chief or designated official of a fire company shall maintain the records provided for in 19-17-108 and 19-17-110 for each active or inactive member of the fire company.

(2) Records must be maintained according to the state of Montana general records retention schedules, as published by the secretary of state pursuant to ~~Title 2, chapter 6~~ sections 13 through 21."

Section 47. Section 22-1-211, MCA, is amended to read:

"22-1-211. Definitions. As used in this part, the following definitions apply:

(1) "Depository library" means a library contracted by the state library under 22-1-212(2) to provide the general public access to state publications.

(2) "State agency" means any entity established or authorized by law to govern operations of the state, such as a state office, officer, department, division, section, bureau, board, commission, council, and agency of the state and all subdivisions of each.

(3) (a) "State publication" means any information originating in or produced by the authority of a state agency or at the total or partial expense of a state agency that the agency intends to distribute outside the

1 agency, regardless of format or medium, source or copyright, license, or trademark.

2 (b) The term does not include information intended only for distribution to contractors or grantees of the
3 agency, persons within the agency, or members of the public under ~~2-6-102~~ [section 3] or information produced
4 by a state agency that is intended strictly for internal administrative or operational purposes."
5

6 **Section 48.** Section 30-9a-522, MCA, is amended to read:

7 **"30-9A-522. Maintenance and destruction of records.** (1) Subject to the requirements of ~~Title 2,~~
8 ~~chapter 6, part 2~~ [sections 13 through 21], the filing office shall maintain a record of the information provided in
9 a filed financing statement for at least 1 year after the effectiveness of the filed financing statement has lapsed
10 under 30-9A-515 with respect to all secured parties of record. The record must be retrievable by using the name
11 of the debtor and:

12 (a) if the record was filed or recorded in the filing office described in 30-9A-501(1)(a), by using the file
13 number assigned to the initial financing statement to which the record relates and the date and time that the
14 record was filed or recorded; or

15 (b) if the record was filed or recorded in the filing office described in 30-9A-501(1)(b), by using the date
16 and time file number assigned to the initial financing statement to which the record relates.

17 (2) Except to the extent that a statute governing disposition of public records provides otherwise, the
18 filing office may immediately destroy any written record evidencing a financing statement. However, if the filing
19 office destroys a written record, it shall maintain another record of the financing statement that complies with
20 subsection (1)."
21

22 **Section 49.** Section 30-14-1603, MCA, is amended to read:

23 **"30-14-1603. Department to provide for no-call list database -- rules -- inclusion of national**
24 **database -- database not public record -- no cost to subscribers.** (1) The department shall provide for the
25 operation of a database containing a list of names and telephone numbers of residential subscribers who object
26 to receiving telephone solicitations. A residential subscriber may be listed in the database without cost to the
27 subscriber.

28 (2) The department shall promulgate rules and regulations governing the state no-call database that are
29 necessary and appropriate to fully implement the provisions of this part. The rules must include but are not limited
30 to rules specifying:

(a) the methods by which each residential subscriber may give notice to the department or a contractor designated by the department of the residential subscriber's objection to receiving telephone solicitations or the methods by which the residential subscriber may revoke the notice;

(b) the length of time for which a notice of objection is effective and the effect of a change of telephone number on the notice;

(c) the methods by which pertinent information may be collected and added to the no-call database;

(d) the methods for obtaining access to the no-call database by any person or entity desiring to make telephone solicitations if that person or entity is required to avoid calling the residential subscribers included in the no-call database;

(e) the cost to be assessed to a person or entity that is required to obtain access to the no-call database; and

(f) other matters relating to the no-call database that the department considers desirable.

(3) If the federal communications commission establishes a single national database of telephone numbers of residential subscribers who object to receiving telephone solicitations pursuant to 47 U.S.C. 227(c)(3), the department shall include that part of the single national database that relates to Montana in the no-call database established pursuant to this section.

(4) Information contained in the no-call database established pursuant to this section may be used only for the purpose of compliance with 30-14-1602 and this section or in a proceeding or action pursuant to 30-14-1605. The information ~~may not be considered a public record~~ IS CONFIDENTIAL INFORMATION AS DEFINED IN [SECTION 2] pursuant to Title 2, chapter 6 and is protected from disclosure under [section 3].

(5) In April, July, October, and January of each year, the department shall make a reasonable attempt to obtain subscription listings of residential subscribers in this state who have arranged to be included on any national no-call list and add those names to the state no-call list."

Section 50. Section 30-17-101, MCA, is amended to read:

"30-17-101. Electronic directory of Montana products. (1) (a) The department of commerce shall provide an electronic directory on the internet ~~or world wide web~~ of Montana businesses that market products qualifying as made in Montana or grown in Montana, as described in subsection (5).

(b) The department may make a decision on the appropriateness of listing a business on the electronic directory based upon the content or use of the products offered by the business.

(2) (a) The electronic directory may be compiled from eligible businesses that have contacted the department of commerce and that have agreed to be listed electronically on the internet ~~or world wide web~~. Agreement by a company also means that the company grants permission for inclusion on a mailing distribution list pursuant to ~~2-6-109(1)~~ [section 11(1)].

(b) The department of commerce is not responsible for listing a company if that company has not contacted the department, has not agreed to a listing pursuant to subsection (2), or does not qualify as having products made in Montana or grown in Montana.

(3) The electronic directory may contain information allowing a potential customer to access directly a business listed in the directory by telephone, mail, or electronic links if the business works with the department of commerce to facilitate and maintain direct access.

(4) The department of commerce may not process orders for a business listed in the electronic directory and is not responsible for handling customer questions or complaints on behalf of a business listed in the electronic directory.

(5) For the purposes of this section, a product is considered made in Montana or grown in Montana if the product has 50% or greater value-added within the state.

(6) For the purposes of this section, "value-added" means a finished product that has been created, made, produced, or enhanced in Montana by Montana residents resulting in a 50% or greater value-added product."

Section 51. Section 32-11-107, MCA, is amended to read:

"32-11-107. Confidentiality. (1) The director and other employees of the department may not disclose information acquired by them in the discharge of their duties under this chapter except to the extent that disclosure of the information is required by law, other than the public records provisions of ~~Title 2, chapter 6,~~ [section 3], or is required by court order.

(2) Notwithstanding subsection (1), the department may disclose information that is confidential under subsection (1) if the department determines that disclosure of the information is necessary to promote the public interest. This subsection does not authorize the disclosure of information acquired by the department in the course of an examination of a licensee.

(3) A BIDCO may provide to a current or prospective creditor or shareholder of the BIDCO a copy of an examination report on the BIDCO made by the department under this chapter."

1
2 **Section 52.** Section 33-1-1403, MCA, is amended to read:

3 **"33-1-1403. Confidentiality.** (1) The statement of actuarial opinion must be provided with the annual
4 statement in accordance with the appropriate NAIC property and casualty annual statement instructions and is
5 a public writing, record within the meaning of ~~2-6-101~~ [section 2].

6 (2) (a) Actuarial reports, work papers, and actuarial opinion summaries retained by the commissioner
7 are trade secrets and are privileged. The materials must be given confidential treatment, are not subject to
8 subpoena, and are not subject to discovery, and the materials are not admissible in evidence in any private civil
9 litigation.

10 (b) Subsection (2)(a) does not limit the commissioner's authority to release the documents to the
11 actuarial board for counseling and discipline if the material is required for the board's professional disciplinary
12 proceedings and if the board establishes procedures satisfactory to the commissioner to preserve the
13 confidentiality of the documents.

14 (3) This section does not limit the commissioner's authority to use the actuarial reports, work papers,
15 actuarial opinion summaries, or other information in furtherance of any regulatory or legal action brought as part
16 of the commissioner's official duties.

17 (4) The commissioner and any person who receives actuarial reports, work papers, actuarial opinion
18 summaries, or other information while acting under the authority of the commissioner may not testify in any private
19 civil action concerning the documents or information subject to the provisions of subsection (2).

20 (5) To assist in the performance of the commissioner's duties, the commissioner may provide and
21 receive documents and information pursuant to 33-1-311.

22 (6) A waiver of privilege or claim of confidentiality in the actuarial reports, work papers, or actuarial
23 opinion summaries does not result from disclosure to the commissioner under this section or result from the
24 exchange of documents and information authorized in subsections (2)(b) and (5)."
25

26 **Section 53.** Section 33-28-108, MCA, is amended to read:

27 **"33-28-108. Examinations and investigations.** (1) (a) The commissioner or some competent person
28 appointed by the commissioner shall examine the affairs, transactions, accounts, records, and assets of each
29 captive insurance company as often as the commissioner considers advisable but no less frequently than every
30 5 years.

(b) The expenses and charges of the examination must be paid to the commissioner by the company or companies examined.

(2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

(3) Except as provided in subsection (4), all examination reports, preliminary examination reports or results, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company or upon court order.

(4) (a) Subsection (3) does not prevent the commissioner from using information obtained pursuant to this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in the commissioner's discretion, grant access to information obtained pursuant to this section to public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this state or any other state or agency of the federal government at any time, as long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(b) Captive risk retention group reports produced pursuant to the examination requirements of this section are public ~~writings~~ records as defined in ~~2-6-101~~ section 2.

(5) Except as provided in subsection (6), the provisions of this section apply to all business written by a captive insurance company.

(6) The examination for a branch captive insurance company may only be of branch business and branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107(2)(d) to the satisfaction of the commissioner.

(7) As a condition of licensure of a branch captive insurance company, the foreign captive insurance company shall grant authority to the commissioner for examination of the affairs of the foreign captive insurance company in the jurisdiction in which the foreign captive insurance company is formed."

Section 54. Section 46-23-110, MCA, is amended to read:

"46-23-110. Records -- dissemination. (1) The department and the board shall keep a record of the board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as provided in ~~2-6-102~~ section 3 and this section.

(2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure

1 under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information
2 in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

3 (3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board
4 staff member shall review the file requested and determine whether any document in the file is subject to a
5 personal privacy or safety interest that clearly exceeds the merits of public disclosure.

6 (4) The board may assert the privacy or safety interest and may withhold a document if the board
7 determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the
8 document's contents would compromise the safety, order, or security of a facility or the safety of facility personnel,
9 a member of the public, or an inmate of the facility if disclosed.

10 (5) The board may not withhold from public scrutiny under subsections (2) through (4) any more
11 information than is required to protect an individual privacy interest or a safety interest.

12 (6) The board may charge a reasonable fee for copying and inspecting records.

13 (7) The board may limit the time and place that the records may be inspected or copied."
14

15 **Section 55.** Section 53-21-1108, MCA, is amended to read:

16 **"53-21-1108. (Temporary) Disclosure of information -- confidentiality.** (1) The department shall
17 provide the Montana suicide review team with a copy of each death certificate filed with the state that lists suicide
18 as the cause of death. The department may not charge a fee for providing the death certificate.

19 (2) The suicide review team may request and may receive information from:

20 (a) a county coroner;

21 (b) the state medical examiner provided for in 44-3-201;

22 (c) an appropriate tribal official as designated by a tribe; and

23 (d) a health care provider as permitted in Title 50, chapter 16, part 5 or 8, or applicable federal law.

24 (3) Upon request of the suicide review team, a health care provider may disclose information about a
25 patient without the patient's authorization or without the authorization of the representative of a patient who is
26 deceased.

27 (4) The suicide review team shall maintain the confidentiality of the information received pursuant to
28 53-21-1105 through 53-21-1110.

29 (5) Materials and information obtained by the suicide review team are not subject to subpoena ~~or to the~~
30 ~~requirements related to public records under Title 2, chapter 6,~~ ARE CONFIDENTIAL INFORMATION AS DEFINED IN

1 [SECTION 2], and are protected from disclosure under [section 3]. (Terminates June 30, 2016--sec. 16, ch. 353,
2 L. 2013.)"

3
4 **Section 56.** Section 61-6-157, MCA, is amended to read:

5 **"61-6-157. Creation of online motor vehicle liability insurance verification system.** (1) The
6 department, in cooperation with the commissioner of insurance, shall establish an accessible common
7 carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or
8 operator with motor vehicle liability policy requirements under 61-6-103, 61-6-301, and 61-6-302 and facilitate
9 or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134.

10 (2) The department may contract with a private vendor or vendors to establish and maintain the system.

11 (3) The system must:

12 (a) send requests to insurers for verification of motor vehicle liability insurance using electronic services
13 established by the insurers, through the internet, world wide web, or a similar proprietary or common carrier
14 electronic system in compliance with the specifications and standards of the insurance industry committee on
15 motor vehicle administration and other applicable industry standards;

16 (b) include appropriate provisions to secure its data against unauthorized access and to maintain a
17 record of all requests and responses;

18 (c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement
19 personnel, county treasurers, and authorized agents under the provisions of 61-3-116;

20 (d) interface, wherever possible, with existing department and law enforcement systems;

21 (e) receive insurance data file transfers from insurers under specifications and standards set forth in
22 subsection (3)(a) to identify vehicles that are not covered by an insurance policy;

23 (f) provide a means by which low-volume insurers that are unable to deploy an online interface with the
24 system can report insurance policy data to the department or its designee for inclusion in the system;

25 (g) provide a means to track separately or distinguish motor vehicles that are subject to a certificate of
26 self-insurance under 61-6-143, a surety or indemnity bond under 61-6-137 or 61-6-301, or a deposit of cash or
27 securities under 61-6-138;

28 (h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled
29 maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed
30 by the department; and

(i) be used only for information-gathering and educational purposes until the completion of an appropriate testing period of not less than 6 months.

(4) The provisions of ~~Title 2, chapter 6, parts 1 and 2, [sections 1 through 20]~~ do not apply to the information contained in the verification system.

(5) Every insurer shall cooperate with the department in establishing and maintaining the system and shall provide access to motor vehicle liability policy status information to verify liability coverage:

(a) for a vehicle insured by that company that is registered in this state; and

(b) if available, for a vehicle that is insured by that company or that is operated in this state and that is the subject of an accident investigation regardless of where the vehicle is registered."

Section 57. Section 61-11-510, MCA, is amended to read:

"61-11-510. Prerequisites to disclosure. (1) Prior to the disclosure of personal information or highly restricted personal information, as provided in 61-11-507, 61-11-508, or 61-11-509, the department shall require the requester to complete and submit an application, in a form prescribed by the department, identifying the requester and specifying the statutorily recognized uses for which the personal information or highly restricted personal information is being sought.

(2) The department shall require the requester to provide identification acceptable to the department.

(3) (a) The department shall collect the appropriate fees paid by the requester and shall determine the amount of the fees in accordance with 61-3-101, 61-11-105, and this subsection (3), and as appropriate, in accordance with the terms of a contract between the department and the requester.

(b) The department shall ensure that fees established by policy or contract:

(i) recover the department's cost and expenses as provided in ~~2-6-110(2)~~ [section 4] and 61-3-101;

(ii) include an additional amount necessary to compensate the department for costs associated with developing and maintaining the database from which information is requested; and

(iii) incorporate, when applicable, the convenience fee established under 2-17-1103.

(c) Except as provided in 61-11-105(5)(b) and subsection (3)(d) of this section, the department shall charge a fee to any person, including a representative of a federal, state, or local government entity or member of the news media who requests information under this section.

(d) The department may not charge a fee for information requested by the governor's office of budget and program planning, the state tax appeal board, any legislative branch agency or committee, or any criminal

1 justice agency, as defined in 44-5-103."

2
3 **Section 58.** Section 81-2-115, MCA, is amended to read:

4 **"81-2-115. Confidentiality of information collected -- exceptions.** (1) Except as provided in
5 subsections (2) through (4), all information regarding the testing of any livestock that is owned by or in the
6 possession or custody of a livestock producer, livestock dealer as defined in 81-8-213, or livestock market as
7 defined in 81-8-213 that is collected by the department:

8 (a) must be held confidential by the department and its employees;

9 (b) is not a public ~~writing as described in 2-6-101 and is exempt from the public disclosure provisions~~
10 ~~of Title 2, chapter 6 record or public information as defined in [section 2] and is exempt from disclosure under~~
11 ~~[section 3];~~ and

12 (c) is not subject to discovery or introduction into evidence in any civil action.

13 (2) For the purposes of this section, "livestock" has the meaning provided in 81-2-702.

14 (3) The administrator, appointed pursuant to 81-1-301, may disclose information collected by the
15 department from individual livestock producers, livestock dealers, or livestock markets for the purposes of the
16 department's animal health programs whenever in the administrator's judgment the disclosure will assist in the
17 implementation of the animal health programs. The administrator may disclose the information to another
18 governmental entity pursuant to the conditions described in subsection (4) or if the governmental entity confirms
19 in writing that the entity will maintain the confidentiality of the information.

20 (4) Animal disease diagnostic tests that identify the owner of the animal tested may not be disclosed
21 unless:

22 (a) the administrator determines that disclosure is necessary to prevent the spread of an animal disease
23 or to protect the public health;

24 (b) the owner gives written permission to disclose the information;

25 (c) the information is disclosed in actions or administrative proceedings commenced under the provisions
26 of Title 81, chapter 2, 4, 5, 6, 8, 9, or 30;

27 (d) disclosure is required by subpoena or court order; or

28 (e) the information is disclosed to a law enforcement agency in connection with the investigation or
29 prosecution of criminal offenses.

30 (5) Upon release by the administrator or the board of any information to any other governmental entity

1 or to any person, the administrator shall:

2 (a) notify the person to whom the information refers or pertains that the release has been made and the
3 name of the governmental entity or person to whom the information was released; and

4 (b) provide to the person to whom the information refers a copy or summary of the information contained
5 in the release."
6

7 NEW SECTION. **Section 59. Repealer.** The following sections of the Montana Code Annotated are
8 repealed:

- 9 2-6-101. Definitions.
- 10 2-6-102. Citizens entitled to inspect and copy public writings.
- 11 2-6-103. Filing and copying fees.
- 12 2-6-104. Records of officers open to public inspection.
- 13 2-6-105. Removal of public records.
- 14 2-6-106. Possession of records.
- 15 2-6-107. Proceedings to compel delivery of records.
- 16 2-6-108. Attachment and warrant to enforce.
- 17 2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.
- 18 2-6-110. Electronic information and nonprint records -- public access -- fees.
- 19 2-6-111. Custody and reproduction of records by secretary of state.
- 20 2-6-112. Concealment of public hazards prohibited -- concealment of information related to settlement or
21 resolution of civil suits prohibited.
- 22 2-6-201. Purpose.
- 23 2-6-202. Definitions.
- 24 2-6-203. Secretary of state's powers and duties -- rulemaking authority.
- 25 2-6-204. State records committee approval.
- 26 2-6-205. Preservation of public records.
- 27 2-6-206. Protection and storage of essential records.
- 28 2-6-207. Certified copies of public records.
- 29 2-6-208. Records committee -- composition and meetings.
- 30 2-6-211. Transfer and storage of public records.

- 1 2-6-212. Disposal of public records.
- 2 2-6-213. Agency responsibilities and transfer schedules.
- 3 2-6-214. Department of administration -- powers and duties.
- 4 2-6-301. Definitions.
- 5 2-6-302. Official records management -- powers and duties.
- 6 2-6-303. Ownership of records -- transfer.
- 7 2-6-304. Outgoing officials -- records management duties.
- 8 2-6-307. Certified copies of official records.
- 9 2-6-401. Definitions.
- 10 2-6-402. Local government records committee -- creation.
- 11 2-6-403. Duties and responsibilities.
- 12 2-6-404. Rulemaking authority.
- 13 2-6-405. Destruction of local government public records prohibited prior to offering -- central registry --
- 14 notification.
- 15 2-6-501. Definitions.
- 16 2-6-502. Protection of social security numbers -- compliance.
- 17 2-6-503. Extensions.
- 18 2-6-504. Notification of breach of security of data system.

19

20 NEW SECTION. Section 60. Codification instruction. (1) [Sections 1 through 27] are intended to be

21 codified as an integral part of Title 2, chapter 6, and the provisions of Title 2, chapter 6, apply to [sections 1

22 through 27].

23 (2) ~~[Sections 28 and 29] are~~ [SECTION 28] IS intended to be codified as an integral part of Title 2, chapter

24 15, part 4, and the provisions of Title 2, chapter 15, part 4, apply to ~~[sections 28 and 29]~~ [SECTION 28].

25

26 COORDINATION SECTION. SECTION 61. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 74 AND

27 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 25 OF THIS ACT] MUST BE AMENDED AS FOLLOWS:

28 "NEW SECTION. Section 25. Definitions. As used in [sections 25 through 27], the following definitions

29 apply:

30 (1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of

1 computerized data that:

2 (a) materially compromises the security, confidentiality, or integrity of the personal information maintained
3 by a state agency or by a third party on behalf of a state agency; and

4 (b) causes or is reasonably believed to cause loss or injury to a person.

5 (2) "Individual" means a human being.

6 (3) "Person" means an individual, a partnership, a corporation, an association, or a public organization
7 of any character.

8 (4) (a) "Personal information" means a first name or first initial and last name in combination with any
9 one or more of the following data elements when the name and data elements are not encrypted:

10 (i) a social security number ~~or tax identification number~~;

11 (ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal
12 identification number or enrollment number, or a similar identification number issued by any state, the District of
13 Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; ~~or~~

14 (iii) an account number or credit or debit card number in combination with any required security code,
15 access code, or password that would permit access to a person's financial account;

16 (iv) medical record information as defined in 33-19-104;

17 (v) a taxpayer identification number; or

18 (vi) an identity protection personal identification number issued by the United States internal revenue
19 service.

20 (b) The term does not include publicly available information from federal, state, local, or tribal government
21 records.

22 (5) "Redaction" means the alteration of personal information contained within data to make all or a
23 significant part of the data unreadable. The term includes truncation, which means that no more than the last four
24 digits of an identification number are accessible as part of the data.

25 (6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee,
26 council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive
27 branch of state government. The term includes an employee of a state agency acting within the course and scope
28 of employment.

29 (b) The term does not include an entity of the judicial branch.

30 (7) "Third party" means:

- 1 (a) a person with a contractual obligation to perform a function for a state agency; or
2 (b) a state agency with a contractual or other obligation to perform a function for another state agency."

3
4 COORDINATION SECTION. SECTION 62. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 74 AND
5 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 27 OF THIS ACT] MUST BE AMENDED AS FOLLOWS:

6 "NEW SECTION. Section 27. Notification of breach of security of data system. (1) (a) Upon
7 discovery or notification of a breach of the security of a data system, a state agency that maintains computerized
8 data containing personal information in the data system shall make reasonable efforts to notify any person whose
9 unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized
10 person.

11 (b) The notification must be made without unreasonable delay, consistent with the legitimate needs of
12 law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the
13 breach and to restore the reasonable integrity of the data system.

14 (2) (a) A third party that receives personal information from a state agency and maintains that information
15 in a computerized data system to perform a state agency function shall:

16 (i) notify the state agency immediately following discovery of the breach if the personal information is
17 reasonably believed to have been acquired by an unauthorized person; and

18 (ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose
19 unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as
20 part of the breach. This notification must be provided in the same manner as the notification required in
21 subsection (1).

22 (b) A state agency notified of a breach by a third party has no independent duty to provide notification
23 of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a)
24 but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third
25 party its reasonable costs for providing the notice.

26 (3) The notification required by this section may be delayed if a law enforcement agency determines that
27 the notification will impede a criminal investigation and requests a delay of notification. The notification required
28 by this section must be made after the law enforcement agency determines that the notification will not
29 compromise the investigation.

30 (4) All state agencies and third parties to whom personal information is disclosed by a state agency shall

1 develop and maintain:

2 (a) an information security policy designed to safeguard personal information; and

3 (b) breach notification procedures that provide reasonable notice to individuals as provided in
4 subsections (1) and (2).

5 (5) A state agency or third party that is required to issue a notification to an individual pursuant to this
6 section shall simultaneously submit to the state's chief information officer at the department of administration and
7 to the attorney general's consumer protection office an electronic copy of the notification and a statement
8 providing the date and method of distribution of the notification. The electronic copy and statement of notification
9 must exclude any information that identifies the person who is entitled to receive notification. If a notification is
10 made to more than one person, a single copy of the notification that includes the number of people who were
11 notified must be submitted to the chief information officer and the consumer protection office."

12
13 COORDINATION SECTION. SECTION 63. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 448 AND
14 [THIS ACT] ARE PASSED AND APPROVED AND IF BOTH CONTAIN A SECTION THAT AMENDS 2-3-221, THEN HOUSE BILL NO.
15 448 IS VOID.

16
17 COORDINATION SECTION. SECTION 64. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 28 AND
18 [THIS ACT] ARE PASSED AND APPROVED, THEN THE REFERENCE IN HOUSE BILL NO. 28 TO "2-6-102, 2-6-110" IN [SECTION
19 1(1)(A)] MUST BE CHANGED TO "[SECTIONS 3 THROUGH 5 OF HOUSE BILL NO. 123]".

20
21 COORDINATION SECTION. SECTION 65. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 608 AND
22 [THIS ACT] ARE PASSED AND APPROVED, THEN THE REFERENCE IN HOUSE BILL NO. 608 TO "2-6-102" IN [SECTION 6(3)]
23 MUST BE CHANGED TO "[SECTION 3 OF HOUSE BILL NO. 123]".

24
25 COORDINATION SECTION. SECTION 66. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 399 AND
26 [THIS ACT] ARE PASSED AND APPROVED, THEN THE REFERENCE IN SENATE BILL NO. 399 TO "2-6-102 AND 2-6-104" IN
27 [SECTION 13] MUST BE CHANGED TO [SECTION 3 OF HOUSE BILL NO. 123]".

28
29 COORDINATION SECTION. SECTION 67. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 119 AND
30 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 8(1) OF HOUSE BILL NO. 119] MUST BE AMENDED AS FOLLOWS:

"(1) Information provided or developed under [sections 1 through 9] for an own risk and solvency assessment or ORSA summary report and in the possession of or control of the commissioner or any other person under [sections 1 through 9] is recognized as proprietary and containing trade secrets. The information is confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, ~~is not admissible as in evidence in any civil action, and is not subject to subpoena, discovery, the provisions of 2-6-102, or the provisions of the Freedom of Information Act, 5 U.S.C. 552.~~"

COORDINATION SECTION. SECTION 68. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 119 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 8(8) OF HOUSE BILL NO. 119] MUST BE AMENDED AS FOLLOWS:

"(8) Information in the possession of or control of the NAIC or a third-party consultant pursuant to [sections 1 through 9] is confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, is not admissible in evidence in any private civil action, and is not subject to ~~2-6-102~~, subpoena; or discovery."

COORDINATION SECTION. SECTION 69. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 119 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 15(1) OF HOUSE BILL NO. 119] MUST BE AMENDED AS FOLLOWS:

"(1) Except as provided in subsection (9), a company's confidential information is confidential information as provided in [section 2 of House Bill No. 123] ~~confidential~~ and privileged, ~~and is not subject to subpoena; or discovery, or public information requests under 2-6-102 or~~ and is not admissible in evidence in any private civil action."

COORDINATION SECTION. SECTION 70. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 119 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 31(1) OF HOUSE BILL NO. 119], AMENDING 33-2-116(1), MUST BE AMENDED AS FOLLOWS:

"(1) Documents, materials, and other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to 33-2-1115 and all information reported pursuant to 33-2-1104(3)(l), 33-2-1104(3)(m), 33-2-1111, and 33-2-1113 ~~must be~~ are confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, are not subject to ~~2-6-102~~, subpoena; or discovery, and are not admissible in evidence in any private civil action. The commissioner is authorized to use the documents,

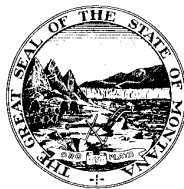
1 materials, and other information to further any regulatory or legal action brought as a part of the commissioner's
2 official duties. The commissioner may not otherwise make the documents, materials, or other information public
3 without the prior written consent of the insurer to which the documents, materials, or other information pertains
4 unless the commissioner, after giving notice and an opportunity to be heard to the insurer and the insurer's
5 affiliates who would be affected, determines that the interest of policyholders, shareholders, or the public would
6 be served by the publication. On a determination that the interest of policyholders, shareholders, or the public
7 would be served, the commissioner may publish all or any part of the documents, materials, or other information
8 in a manner that the commissioner considers appropriate."
9

10 COORDINATION SECTION. SECTION 71. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 119 AND
11 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 31(7) OF HOUSE BILL NO. 119], AMENDING 33-2-1116(7), MUST
12 BE AMENDED AS FOLLOWS:

13 "(7) Documents, materials, and other information in the possession or control of the NAIC pursuant to
14 [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section are confidential by law
15 information as provided in [section 2 of House Bill No. 123] and privileged, are not admissible in evidence in a
16 private civil action, and are not subject to ~~2-6-102~~, subpoena, or discovery."
17

18 NEW SECTION. SECTION 72. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE
19 SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS
20 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
21 APPLICATIONS.

22 - END -



AN ACT GENERALLY REVISING AND REORGANIZING MONTANA PUBLIC RECORDS LAWS; UPDATING DEFINITIONS AND PROVIDING NEW DEFINITIONS; CLARIFYING ACCESS TO PUBLIC INFORMATION; PROVIDING SAFETY AND SECURITY EXCEPTIONS; PROVIDING A PROCEDURE FOR PUBLIC INFORMATION REQUESTS; ALLOWING FEES FOR PUBLIC INFORMATION REQUESTS; ALLOWING SPECIAL FEES FOR CERTAIN INFORMATION; EMPHASIZING THE DISPOSITION OF PUBLIC RECORDS ACCORDING TO RETENTION SCHEDULES; UPDATING THE REQUIREMENTS FOR ESSENTIAL RECORDS; CLARIFYING THE PROHIBITION ON DISSEMINATING DISTRIBUTION LISTS; REVISING THE RECORDS MANAGEMENT DUTIES OF THE SECRETARY OF STATE; REQUIRING COLLABORATION BETWEEN THE DEPARTMENT OF ADMINISTRATION AND THE SECRETARY OF STATE; EXPANDING THE MEMBERSHIP AND DUTIES OF THE STATE RECORDS COMMITTEE; PROVIDING POWERS AND DUTIES OF THE MONTANA HISTORICAL SOCIETY FOR MANAGING HISTORIC RECORDS AND CONSTITUTIONAL OFFICER RECORDS; CLARIFYING AGENCY RESPONSIBILITIES FOR RECORDS MANAGEMENT; REVISING MEMBERSHIP AND DUTIES OF THE LOCAL GOVERNMENT RECORDS COMMITTEE; REDUCING THE NOTICE REQUIREMENTS BEFORE DESTRUCTION OF CERTAIN LOCAL GOVERNMENT RECORDS; UPDATING PROTECTIONS OF PERSONAL INFORMATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-3-212, 2-3-221, 2-3-301, 2-15-2017, 5-11-203, 7-4-2614, 7-5-2132, 7-5-4124, 7-11-1007, 13-1-303, 13-21-228, 15-1-103, 15-1-521, 15-62-209, 17-8-403, 18-4-126, 19-2-403, 19-17-111, 22-1-211, 30-9A-522, 30-14-1603, 30-17-101, 32-11-107, 33-1-1403, 33-28-108, 46-23-110, 53-21-1108, 61-6-157, 61-11-510, AND 81-2-115, MCA; AND REPEALING SECTIONS 2-6-101, 2-6-102, 2-6-103, 2-6-104, 2-6-105, 2-6-106, 2-6-107, 2-6-108, 2-6-109, 2-6-110, 2-6-111, 2-6-112, 2-6-201, 2-6-202, 2-6-203, 2-6-204, 2-6-205, 2-6-206, 2-6-207, 2-6-208, 2-6-211, 2-6-212, 2-6-213, 2-6-214, 2-6-301, 2-6-302, 2-6-303, 2-6-304, 2-6-307, 2-6-401, 2-6-402, 2-6-403, 2-6-404, 2-6-405, 2-6-501, 2-6-502, 2-6-503, AND 2-6-504, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose. The purpose of this chapter is to ensure efficient and effective management of public records and public information, in accordance with Article II, sections 8 through 10, of the Montana constitution, for the state of Montana and its political subdivisions.

Section 2. Definitions. As used in this chapter, the following definitions apply:

(1) "Confidential information" means information that is accorded confidential status or is prohibited from disclosure as provided by applicable law. The term includes information that is:

(a) constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure;

(b) related to judicial deliberations in adversarial proceedings;

(c) necessary to maintain the security and integrity of secure facilities or information systems owned by or serving the state; and

(d) designated as confidential by statute or through judicial decisions, findings, or orders.

(2) "Constitutional officer" means the governor, lieutenant governor, attorney general, secretary of state, superintendent of public instruction, or auditor, who are the constitutionally designated and elected officials of the executive branch of government.

(3) "Constitutional officer record" means a public record prepared, owned, used, or retained by a constitutional officer.

(4) "Essential record" means a public record immediately necessary to:

(a) respond to an emergency or disaster;

(b) begin recovery or reestablishment of operations during and after an emergency or disaster;

(c) protect the health, safety, and property of Montana citizens; or

(d) protect the assets, obligations, rights, history, and resources of a public agency, its employees and customers, and Montana citizens.

(5) "Executive branch agency" means a department, board, commission, office, bureau, or other public authority of the executive branch of state government.

(6) "Historic record" means a public record found by the state archivist to have permanent administrative or historic value to the state.

(7) "Local government" means a city, town, county, consolidated city-county, special district, or school

district or a subdivision of one of these entities.

(8) "Local government records committee" means the committee provided for in [section 22].

(9) "Permanent record" means a public record designated for long-term or permanent retention.

(10) "Public agency" means the executive, legislative, and judicial branches of Montana state government, a political subdivision of the state, a local government, and any agency, department, board, commission, office, bureau, division, or other public authority of the executive, legislative, or judicial branch of the state of Montana.

(11) "Public information" means information prepared, owned, used, or retained by any public agency relating to the transaction of official business, regardless of form, except for confidential information that must be protected against public disclosure under applicable law.

(12) "Public officer" means any person who has been elected or appointed as an officer of state or local government.

(13) "Public record" means public information that is:

(a) fixed in any medium and is retrievable in usable form for future reference; and

(b) designated for retention by the state records committee, judicial branch, legislative branch, or local government records committee.

(14) "Records manager" means an individual designated by a public agency to be responsible for coordinating the efficient and effective management of the agency's public records and information.

(15) "State records committee" means the state records committee provided for in [section 15].

Section 3. Access to public information -- safety and security exceptions -- Montana historical society exception. (1) Except as provided in subsections (2) and (3), every person has a right to examine and obtain a copy of any public information of this state.

(2) A public officer may withhold from public scrutiny information relating to individual or public safety or the security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information jeopardizes the safety of facility personnel, the public, students in a public school, or inmates of a facility. A public officer may not withhold from public scrutiny any more information than is required to protect individual or public safety or the security of public facilities.

(3) The Montana historical society may honor restrictions imposed by private record donors as long as

the restrictions do not apply to public information. All restrictions must expire no later than 50 years from the date the private record was received. Upon the expiration of the restriction, the private records will be made accessible to the public.

Section 4. Public information requests -- fees. (1) A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons.

(2) Upon receiving a request for public information, a public agency shall respond in a timely manner to the requesting person by:

(a) making the public information maintained by the public agency available for inspection and copying by the requesting person; or

(b) providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered and any fees that may be charged pursuant to subsection (3).

(3) A public agency may charge a fee for fulfilling a public information request. Except where a fee is otherwise provided for by law, the fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible. The fee must be documented. The fee may include the time required to gather public information. The public agency may require the requesting person to pay the estimated fee prior to identifying and gathering the requested public information.

(4) A public agency is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.

(5) If a public agency agrees to a request to customize a records request response, the costs of the customization may be included in the fees charged by the agency.

(6) (a) The secretary of state is authorized to charge fees under this section. The fees must be set and deposited in accordance with 2-15-405. The fees must be collected in advance.

(b) The secretary of state may not charge a fee to a member of the legislature or public officer for any search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties.

Section 5. Special fees allowable for certain information. (1) In addition to the fee allowed under

[section 4], the department of revenue may charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and assessment system database from which the information is requested. The fee must be charged to persons, federal agencies, state agencies, and other entities requesting the database or any part of the database from any department property valuation and assessment system. The fee may not be charged to the governor's office of budget and program planning, the state tax appeal board, or any legislative body or its members or staff.

(2) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property.

(3) All fees received by the department of revenue under [section 4] and this section must be deposited in the property value improvement fund as provided in 15-1-521.

(4) In accordance with the fees allowed under [section 4], the Montana historical society may charge fees as approved by its board of trustees for copies of materials contained in its collections, based on documentable curatorial duties as set forth in 22-3-101.

Section 6. Management of public records -- disposal and destruction. (1) (a) Each public officer is responsible for properly managing the public records within the public officer's possession or control through an established records management plan that satisfies the requirements of this chapter.

(b) Executive branch agencies shall manage public records according to the provisions of [sections 13 through 21] and the rules and guidelines established by the secretary of state, the state records committee, and the Montana historical society.

(c) Local governments shall manage public records according to the provisions of [sections 22 through 24] and the rules and guidelines established by the secretary of state, the local government records committee, and the Montana historical society.

(d) Pursuant to 5-2-503 and 5-11-105, the legislative council shall administer the records management plan for the legislative branch. The legislative branch shall cooperate with the secretary of state, the state records committee, the local government records committee, and the Montana historical society in the development, implementation, and administration of the legislative records management plan using [sections 13 through 21] as guidance.

(e) The judicial branch shall establish a records management plan. The judicial branch may seek assistance from the secretary of state, the state records committee, the local government records committee, and the Montana historical society regarding development, implementation, and administration of the judicial records management plan.

(2) When a public record has reached the end of its retention period, the public officer shall ensure the record is disposed of, destroyed, or transferred according to the provisions of this chapter.

Section 7. Preservation of public records -- possession of public records. (1) All public records are and remain the property of the public agency possessing the records. The public records must be delivered by outgoing public officers and employees to their successors and must be preserved, stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of this chapter.

(2) If an outgoing public officer or employee refuses or fails to deliver to the current public officer or employee any public records that pertain to that public office, the current public officer or employee may file a complaint in the district court of the county where the outgoing public officer or employee resides, pursuant to the Montana Rules of Civil Procedure, to compel the outgoing public officer or employee to deliver any public records still in the outgoing public officer or employee's possession to the current public officer or employee.

Section 8. Written notice of denial -- civil action -- costs to prevailing party in certain actions to enforce constitutional or statutory rights. (1) A public agency that denies an information request to release information or records shall provide a written explanation for the denial.

(2) If a person who makes an information request receives a denial from a public agency and believes that the denial violates the provisions of this chapter, the person may file a complaint pursuant to the Montana Rules of Civil Procedure in district court.

(3) A person alleging a deprivation of rights who prevails in an action brought in district court to enforce the person's rights under Article II, section 9, of the Montana constitution or under the provisions of [sections 1 through 24] may be awarded costs and reasonable attorney fees.

Section 9. Certified copies of records -- historic records and constitutional officer records -- exception. (1) A person may request a certified copy of a public record from a public agency subject to the

provisions of [section 3]. The public agency may charge a fee for the certified copy in accordance with [section 4].

(2) A person may request a certified copy of a historic record or a constitutional officer record from the Montana historical society subject to the provisions of [section 3]. The Montana historical society may charge a fee for the certified copy in accordance with [sections 4 and 5(4)].

(3) A certified copy created by the Montana historical society of a historic record or a constitutional officer record has the same force in law as if made by the original public agency that created the record.

(4) Pursuant to 2-15-403, this section does not apply to certified copies provided by the secretary of state for information contained in the secretary of state's corporate and uniform commercial code electronic filing system.

Section 10. Protection and storage of essential records. (1) To provide for the continuity and preservation of civil government, each public officer shall designate certain public records as essential records. The list must be continually maintained by the public officers to ensure its accuracy. Each public officer shall collaborate with the appropriate continuity of government programs to ensure essential records are identified and maintained.

(2) Each public officer shall ensure essential records are efficiently and effectively secured. Each public officer shall look to the guidance provided by the state records committee or the local government records committee in choosing appropriate methods to protect, store, back up, and recover essential records.

Section 11. Prohibition on dissemination or use of distribution lists -- exceptions -- penalties. (1) Except as provided in subsections (3) through (10), to protect the privacy of those who deal with state and local government:

(a) a public agency may not distribute or sell a distribution list without first securing the permission of those on the list; and

(b) a list of persons prepared by a public agency may not be used as a distribution list without first securing the permission of those on the list except by that agency.

(2) As used in this section, "distribution list" means any list of personal contact information collected by a public agency and used to facilitate unsolicited contact with individuals on the distribution list.

(3) This section does not prevent an individual from compiling a distribution list by examination of records that are otherwise open to public inspection.

(4) This section does not apply to the lists of:

- (a) registered electors and the new voter lists provided for in 13-2-115;
- (b) the names of employees governed by Title 39, chapter 31;
- (c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127;
- (d) persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37, chapters 1 through 4, 6 through 20, 22 through 29, 31, 34 through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through 69, 72, and 73; and Title 50, chapters 39, 72, 74, and 76; or

(e) persons certified as claims examiners under 39-71-320.

(5) This section does not prevent an agency from providing a list to persons providing prelicensing or continuing education courses subject to state law or subject to Title 33, chapter 17.

(6) This section does not apply to the right of access by Montana law enforcement agencies.

(7) This section does not apply to the secretary of state's electronic filing system developed pursuant to 2-15-404 and containing corporate and uniform commercial code information.

(8) This section does not apply to the use by the public employees' retirement board of a list of board-administered retirement system participants to send materials on behalf of a retiree organization formed for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the list is not released to the organization.

(9) This section does not apply to lists of individuals who sign attendance sheets or sign-in sheets at a hearing or meeting of a public agency.

(10) This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.

(11) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.

Section 12. Concealment of public hazards prohibited -- concealment of information related to settlement or resolution of civil suits prohibited. (1) This section may be cited as the "Gus Barber Antisecrecy Act".

(2) As used in this section, "public hazard" means a device, instrument, or manufactured product or a condition of a device, instrument, or manufactured product that endangers public safety or health and has caused injury, as defined in 27-1-106.

(3) Except as otherwise provided in this section, a court may not enter a final order or judgment that has the purpose or effect of concealing a public hazard.

(4) Any portion of a final order or judgment entered or a written final settlement agreement entered into that has the purpose or effect of concealing a public hazard is contrary to public policy, is void, and may not be enforced. This section does not prohibit the parties from keeping the monetary amount of a written final settlement agreement confidential.

(5) A party to civil litigation may not request, as a condition to the production of discovery, that another party stipulate to an order that would violate this section.

(6) This section does not apply to:

(a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected pursuant to Title 30, chapter 14, part 4;

(b) other information that is confidential under state or federal law; or

(c) a health care provider, as defined in 27-6-103.

(7) Any affected person, including but not limited to a representative of the news media, has standing to contest a final order or judgment or written final settlement agreement that violates this section by motion in the court in which the case was filed.

(8) The court shall examine the disputed information or materials in camera. If the court finds that the information or materials or portions of the information or materials consist of information concerning a public hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow disclosure of only that portion of the information or materials necessary or useful to the public concerning the public hazard.

(9) This section does not apply to a protective order issued under Rule 26(c) of the Montana Rules of Civil Procedure or to any materials produced under the order. Materials used as exhibits may be publicly disclosed pursuant to the provisions of subsections (7) and (8).

Section 13. Secretary of state -- powers and duties -- rulemaking authority. (1) To ensure the proper

management and safeguarding of public records, the secretary of state shall:

- (a) establish guidelines based on accepted industry standards for managing public records;
- (b) upon request of another executive branch agency, review, analyze, and make recommendations regarding executive branch agency filing systems and procedures;
- (c) operate the state records center for the purpose of storing and servicing public records not retained in office space;
- (d) provide information and training materials for all phases of efficient and effective records management;
- (e) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies;
- (f) consult with the department of administration pursuant to [section 14];
- (g) adopt rules regarding management of public records;
- (h) adopt rules to implement the objectives of the state records committee and local government records committee; and
- (i) upon request, assist and advise in the establishment of records management procedures in the legislative and judicial branches of state government and provide services similar to those available to the executive branch.

(2) In addition to the requirements under subsection (1), the secretary of state may operate a central microfilm unit to microfilm, on a cost recovery basis, all records approved for filming by the office of origin and the secretary of state.

Section 14. Department of administration -- powers and duties. (1) To ensure compatibility with the information technology systems of state government and to promote adherence to records management principles and best practices, the department of administration, in consultation with the secretary of state, shall establish standards for technological compatibility for state agencies for records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods.

(2) The department of administration, in consultation with the secretary of state, shall approve all acquisitions of executive branch agency records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure

compatibility with the standards developed under subsection (1).

(3) The department of administration is responsible for the management and operation of equipment, systems, facilities, and processes integral to the department's central computer center and statewide telecommunications system.

Section 15. State records committee -- composition and meetings. (1) There is a state records committee composed of:

- (a) representatives of:
 - (i) the department of administration;
 - (ii) the legislative auditor;
 - (iii) the attorney general;
 - (iv) the secretary of state;
 - (v) the Montana historical society;
 - (vi) the governor;
 - (vii) the clerk of the supreme court; and
 - (viii) the state chief information officer; and
- (b) five members representing executive branch agencies designated pursuant to subsections (4) and (5).

(2) The state records committee is administered by the secretary of state, and the secretary of state's representative serves as the presiding officer for the committee.

(3) The committee members representing the agencies in subsection (1)(a) are designated by the heads of the respective agencies, and their appointments must be submitted in writing to the secretary of state. These committee members serve at the pleasure of the heads of their respective agencies.

(4) To implement subsection (1)(b), the committee members in subsection (1)(a) shall develop a rotation by which each of the executive branch agencies is designated to select a representative to serve a 2-year term as a committee member. The secretary of state shall adopt the rotation by administrative rule.

(5) The committee shall establish guidelines for the heads of executive branch agencies in appointing representatives to ensure the executive branch representatives provide a balance of perspectives from records management, information technology, and legal professionals.

(6) The committee shall meet at least quarterly.

(7) Committee members shall serve without additional salary but are entitled to reimbursement for travel expenses incurred while engaged in committee activities as provided for in 2-18-501 through 2-18-503. Expenses must be paid from the appropriations made for operation of their respective agencies.

Section 16. State records committee duties and responsibilities. The purpose of the state records committee is to act as a resource for executive branch agencies and others by staying at the forefront of records management best practices. The committee shall:

- (1) gather and disseminate information on all phases of records management;
- (2) advise the secretary of state in developing records management standards, guidelines, and training materials;
- (3) develop guidelines to help agencies identify, maintain, and secure their essential records;
- (4) serve as a forum for continuing collaboration among records management, information technology, and legal professionals throughout state agencies;
- (5) make recommendations to the secretary of state for rulemaking regarding public records management;
- (6) regularly review existing public records laws and make recommendations to the secretary of state regarding pursuing statutory change; and
- (7) report biennially to the governor and, as provided in 5-11-210, the legislature on the activities of the committee, improvements in records management in state government, aspects of records management requiring further improvement, and committee recommendations and plans for further improvement.

Section 17. Retention and disposition subcommittee -- approval required for record disposal. (1) There is a subcommittee of the state records committee to be known as the retention and disposition subcommittee. The subcommittee is composed of the members of the state records committee who represent the following offices:

- (a) the department of administration;
- (b) the legislative auditor;
- (c) the attorney general;

- (d) the secretary of state; and
- (e) the Montana historical society.

(2) The subcommittee shall approve, modify, or disapprove the recommendations on retention schedules of all public records.

(3) Except as provided in subsection (4), no public record may be disposed of or destroyed without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction must be submitted to the subcommittee by the agency concerned.

(4) The subcommittee may by unanimous approval establish categories of records for which no disposal request is required if those records are retained for the designated retention period.

Section 18. Historic records -- Montana historical society -- powers and duties. To ensure the proper management and safeguarding of historic records, the Montana historical society shall:

- (1) establish and operate the state archives as authorized by appropriation for the purpose of storing, preserving, and providing access to historic records transferred to the custody of the state archives;
- (2) in cooperation with the secretary of state, the local government records committee, and the state records committee, establish guidelines to inventory, catalog, retain, transfer, and provide access to all historic records;
- (3) maintain and enforce restrictions on access to historic records in the custody of the state archives in accordance with the provisions of this part; and
- (4) in accordance with the guidelines established pursuant to subsection (2), remove and destroy duplicate records and records considered to have no historical value.

Section 19. Constitutional officer records -- Montana historical society. (1) All constitutional officer records are the property of the state. The records must be delivered by outgoing constitutional officers to their successors, who shall preserve, store, transfer, destroy, or dispose of and otherwise manage them in accordance with the provisions of this section.

(2) Within 2 years after taking office as a constitutional officer, the current constitutional officer shall consult with staff members of the Montana historical society and transfer to the Montana historical society all of the constitutional officer records of the prior officeholder that are not necessary to the current operation of that

office and are considered worthy of preservation.

(3) An outgoing constitutional officer, in consultation with staff members of the Montana historical society, shall review constitutional officer records and isolate any items of a purely personal nature. The personal papers are not subject to this section, but they may be deposited along with the constitutional officer records at the Montana historical society at the constitutional officer's discretion.

(4) An outgoing constitutional officer, in consultation with staff members of the Montana historical society, may restrict access to certain segments of that officer's records. Restrictions may not be longer than the lifetime of the depositing official. Restricted access may be imposed only to protect the confidentiality of personal information contained in the records. Restricted access may not be imposed unless the demand of individual privacy clearly exceeds the merits of public disclosure.

(5) Any question concerning the transfer or other status of constitutional officer records arising between the state archives and a constitutional officer's office must be decided by a four-fifths vote of the members of the retention and disposition subcommittee provided for in [section 17].

Section 20. Permanent records -- agency responsibilities -- state records center. (1) All permanent records no longer required in the current operation of the office where they are made or kept and all records of each agency or activity of the executive branch of state government that has been abolished or discontinued must be maintained by the agency or transferred to the state records center in accordance with approved records retention schedules.

(2) When records are transferred to the state records center, the transferring agency does not lose its rights of control and access. The state records center is merely a custodian of the agency records, and access is only by agency approval. Agency records for which the state records center acts as custodian may not be subpoenaed from the state records center but must be subpoenaed from the agency to which the records belong. The state records center may charge fees to cover the cost of records storage and servicing.

(3) Prior to transferring a permanent record to the state records center, the transferring agency shall consult with the state archivist to determine whether the record is also a historic record. If the record is found to be a historic record, it must be transferred to the Montana historical society in accordance with the provisions of [section 18].

Section 21. Agency records management duties. Each department head shall administer the executive branch agency's records management function and shall:

- (1) coordinate all aspects of the agency records management function in accordance with procedures prescribed by the secretary of state and the state records committee;
- (2) analyze records inventory data and examine and compare all inventories within the agency to minimize duplication of records;
- (3) review and approve records disposal requests for submission to the retention and disposition subcommittee;
- (4) review established records retention schedules to ensure they are complete and current and make recommendations to the secretary of state and the state records committee regarding minimal retentions for all copies of public records within the agency;
- (5) incorporate records management requirements into the agency information technology plan provided for in 2-17-523;
- (6) ensure that all agency employees receive appropriate and ongoing records management training; and
- (7) after considering guidance from the state records committee regarding records manager qualifications, officially designate a qualified agency records manager to manage the functions provided for in this section.

Section 22. Local government records committee -- composition and meetings. (1) There is a local government records committee.

- (2) The committee consists of the following eight members:
 - (a) the state archivist;
 - (b) the state records manager;
 - (c) a representative of the department of administration;
 - (d) two local government records managers appointed by the director of the Montana historical society;
 - (e) two local government records managers appointed by the secretary of state; and
 - (f) a person representing the Montana state genealogical society, appointed by the secretary of state, who shall serve as a volunteer.

(3) Committee members subject to appointment shall hold office for a period of 2 years beginning January 1 of the year following their appointment.

(4) Vacancies must be filled in the same manner they were filled originally.

(5) The committee shall elect a presiding officer and a vice presiding officer.

(6) The committee shall meet at least twice a year upon the call of the secretary of state or the presiding officer.

(7) Except for the member appointed in subsection (2)(f), members of the committee not serving as part of their compensated government employment must be compensated in accordance with 2-18-501 through 2-18-503 for each day in committee attendance. Members who serve as part of their compensated government employment may not receive additional compensation, but the employing governmental entity shall furnish, in accordance with the prevailing per diem rates, a reasonable allowance for travel and other expenses incurred in attending committee meetings.

Section 23. Local government records committee -- duties and responsibilities. The local government records committee shall:

(1) approve, modify, or disapprove proposals for local government records retention and disposition schedules;

(2) appoint a subcommittee, known as the local government records destruction subcommittee, to handle requests for disposal of records. The subcommittee consists of the state archivist, one of the local government records managers, and the representative of the department of administration. Unless specifically authorized by statute or by the retention and disposition schedule, a local government public record may not be destroyed or otherwise disposed of without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction of local government records must be submitted to the subcommittee by the entity concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must be referred to the local government records committee for approval. When approval is obtained from the subcommittee or from the local government records committee for the disposal of a record, the local government records committee shall consider the inclusion of a new category of record for which a disposal request is not required and shall update the schedule as necessary.

(3) establish a retention and disposition schedule for categories of records for which a disposal request

is not required. The local government records committee shall publish the retention and disposition schedules. Updates to those schedules, if any, must be published at least annually.

- (4) develop guidance for local governments to identify, maintain, and secure their essential records;
- (5) respond to requests for technical advice on matters relating to local government records; and
- (6) provide leadership and coordination in matters affecting the records of multiple local governments.

Section 24. Disposal of local government public records prohibited prior to offering -- central registry -- notification. (1) A local government public record more than 10 years old may not be destroyed unless it is first offered to the Montana historical society, the state archives, Montana public and private universities and colleges, local historical museums, local historical societies, Montana genealogical groups, and the general public.

(2) The availability of a public record to be destroyed must be noticed to the entities listed in subsection (1) at least 60 days prior to disposal.

(3) (a) Claimed records must be given to entities in the order of priority listed in subsection (1).

(b) All expenses for the removal of claimed records must be paid by the entity claiming the records.

(c) The local government records committee shall establish procedures by which public records must be offered and claimed pursuant to this section.

(d) The local government records committee shall develop and maintain a central registry of the entities identified in subsection (1) who are interested in receiving notice of the potential destruction of public records pursuant to this section. The registry must be constructed to allow a local government entity to notify the local government records committee when the entity intends to destroy documents covered under this section and allows the local government records committee to subsequently notify the entities in the registry. A local government entity's notice to the local government records committee pursuant to this subsection (3)(d) and the records committee's notice to the entities listed on the registry fulfills the notification requirements of this section.

Section 25. Definitions. As used in [sections 25 through 27], the following definitions apply:

(1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of computerized data that:

- (a) materially compromises the security, confidentiality, or integrity of the personal information maintained

by a state agency or by a third party on behalf of a state agency; and

(b) causes or is reasonably believed to cause loss or injury to a person.

(2) "Individual" means a human being.

(3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character.

(4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and data elements are not encrypted:

(i) a social security number or tax identification number;

(ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; or

(iii) an account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to a person's financial account.

(b) The term does not include publicly available information from federal, state, local, or tribal government records.

(5) "Redaction" means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.

(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.

(b) The term does not include an entity of the judicial branch.

(7) "Third party" means:

(a) a person with a contractual obligation to perform a function for a state agency; or

(b) a state agency with a contractual or other obligation to perform a function for another state agency.

Section 26. Protection of personal information -- compliance -- extensions. (1) Each state agency that maintains the personal information of an individual shall develop procedures to protect the personal

information while enabling the state agency to use the personal information as necessary for the performance of its duties under federal or state law.

(2) The procedures must include measures to:

- (a) eliminate the unnecessary use of personal information;
- (b) identify the person or state agency authorized to have access to personal information;
- (c) restrict access to personal information by unauthorized persons or state agencies;
- (d) identify circumstances in which redaction of personal information is appropriate;
- (e) dispose of documents that contain personal information in a manner consistent with other record retention requirements applicable to the state agency;
- (f) eliminate the unnecessary storage of personal information on portable devices; and
- (g) protect data containing personal information if that data is on a portable device.

(3) Except as provided in subsection (4), each state agency that is created after [the effective date of this act] shall complete the requirements of this section within 1 year of its creation.

(4) The chief information officer provided for in 2-17-511 may grant an extension to any state agency subject to the provisions of the Montana Information Technology Act provided for in Title 2, chapter 17, part 5. The chief information officer shall inform the information technology board, the office of budget and program planning, and the legislative finance committee of all extensions that are granted and of the rationale for granting the extensions. The chief information officer shall maintain written documentation that identifies the terms and conditions of each extension and the rationale for the extension.

Section 27. Notification of breach of security of data system. (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person.

(b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.

(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system to perform a state agency function shall:

(i) notify the state agency immediately following discovery of the breach if the personal information is reasonably believed to have been acquired by an unauthorized person; and

(ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as part of the breach. This notification must be provided in the same manner as the notification required in subsection (1).

(b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation.

(4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain:

(a) an information security policy designed to safeguard personal information; and

(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).

(5) A state agency or a third party that is required to issue a notification to an individual pursuant to this section shall simultaneously submit to the state's chief information officer at the department of administration an electronic copy of the notification and a statement providing the date and method of distribution of the notification. The electronic copy and statement of notification must exclude any information that identifies the person who is entitled to receive notification. If a notification is made to more than one person, a single copy of the notification that includes the number of people who were notified must be submitted to the chief information officer.

Section 28. Custody and reproduction of certain records by secretary of state. (1) The secretary of state is charged with the custody of:

(a) the enrolled copy of the constitution;

- (b) all the acts and resolutions passed by the legislature;
- (c) the journals of the legislature;
- (d) the great seal;
- (e) all documents kept or deposited in the secretary of state's office pursuant to law.

(2) All records included in subsection (1) may be kept and reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in [section 15].

(3) The state records committee may approve the disposal of original records once those records are reproduced as provided for in subsection (2) unless disposal takes the form of transfer of records. Reproduction is not necessary for transferred records. The reproduction or certified copy of a record may be used in place of the original for all purposes, including as evidence in any court or proceeding, and has the same force and effect as the original record.

Section 29. Section 2-3-212, MCA, is amended to read:

"2-3-212. Minutes of meetings -- public inspection. (1) Appropriate minutes of all meetings required by 2-3-203 to be open must be kept and must be available for inspection by the public. If an audio recording of a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an official recording is made, a written record of the meeting must also be made and must include the information specified in subsection (2).

(2) Minutes must include without limitation:

- (a) the date, time, and place of the meeting;
- (b) a list of the individual members of the public body, agency, or organization who were in attendance;
- (c) the substance of all matters proposed, discussed, or decided; and
- (d) at the request of any member, a record of votes by individual members for any votes taken.

(3) If the minutes are recorded and designated as the official record, a log or time stamp for each main agenda item is required for the purpose of providing assistance to the public in accessing that portion of the meeting.

(4) Any time a presiding officer closes a public meeting pursuant to 2-3-203, the presiding officer shall ensure that minutes taken in compliance with subsection (2) are kept of the closed portion of the meeting. The minutes from the closed portion of the meeting may not be made available for inspection except pursuant to a

court order."

Section 30. Section 2-3-221, MCA, is amended to read:

"2-3-221. Costs to ~~plaintiff~~ prevailing party in certain actions to enforce constitutional right to know. A ~~plaintiff~~ person alleging a deprivation of rights who prevails in an action brought in district court to enforce the ~~plaintiff's~~ person's rights under Article II, section 9, of the Montana constitution ~~may~~ may be awarded costs and reasonable attorney fees."

Section 31. Section 2-3-301, MCA, is amended to read:

"2-3-301. Agency to accept public comment electronically -- dissemination of electronic mail address and documents required -- ~~prohibiting fees~~ prohibited. (1) An agency that accepts public comment pursuant to a statute, administrative rule, or policy, including an agency adopting rules pursuant to the Montana Administrative Procedure Act or an agency to which 2-3-111 applies, shall provide for the receipt of public comment by the agency by use of an electronic mail system.

(2) As part of the agency action required by subsection (1), an agency shall disseminate by appropriate media its electronic mail address to which public comment may be made, including dissemination in:

- (a) rulemaking notices published pursuant to the Montana Administrative Procedure Act;
- (b) the telephone directory of state agencies published by the department of administration;
- (c) any notice of agency existence, purpose, and operations published on the internet ~~world-wide web,~~ popularly known as a "website", used by the agency; or
- (d) any combination of the methods of dissemination provided in subsections (2)(a) through (2)(c).

(3) An agency shall, at the request of another agency or person and subject to ~~2-6-102~~ [section 3], disseminate the electronic documents to that agency or person by electronic mail in place of surface mail. Notification of the availability of an electronic notice of proposed rulemaking may be sent to an interested person as provided in 2-4-302(2)(a)(ii). An agency may not charge a fee for providing documents by electronic mail in accordance with this subsection.

(4) An agency that receives electronic mail pursuant to subsection (1) shall retain the electronic mail as either an electronic or a paper copy to the same extent that other comments are retained.

(5) As used in this section, "agency" means a department, division, bureau, office, board, commission,

authority, or other agency of the executive branch of state government."

Section 32. Section 2-15-2017, MCA, is amended to read:

"2-15-2017. Domestic violence fatality review commission -- confidentiality of meetings and records -- criminal liability for unauthorized disclosure -- report to legislature. (1) There is a domestic violence fatality review commission in the department of justice.

(2) The commission shall:

- (a) examine the trends and patterns of domestic violence-related fatalities in Montana;
- (b) educate the public, service providers, and policymakers about domestic violence fatalities and strategies for intervention and prevention; and
- (c) recommend policies, practices, and services that may encourage collaboration and reduce fatalities due to domestic violence.

(3) The members of the commission, not to exceed 18, are appointed by the attorney general from among the following disciplines:

- (a) representatives from state departments that are involved in issues of domestic abuse;
- (b) representatives of private organizations that are involved in issues of domestic abuse;
- (c) medical and mental health care providers who are involved in issues of domestic abuse;
- (d) representatives from law enforcement, the judiciary, and the state bar of Montana;
- (e) representatives of Montana Indian tribes;
- (f) other concerned citizens; and
- (g) a member of the legislature who serves on either the house judiciary committee or the senate judiciary committee.

(4) The members shall serve without compensation by the commission but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503, and members who are full-time salaried officers or employees of this state or of any political subdivision of this state are entitled to their regular compensation. The provisions of 2-15-122 do not apply to the commission.

(5) The commission shall review closed domestic homicide cases selected by the attorney general to provide the commission with the best opportunity to fulfill its duties under this section.

(6) Upon written request from the commission, a person who possesses information or records that are

necessary and relevant to a domestic violence fatality review shall, as soon as practicable, provide the commission with the information and records. A person who provides information or records upon request of the commission is not criminally or civilly liable for providing information or records in compliance with this section.

(7) The meetings and proceedings of the commission are confidential and are exempt from the provisions of Title 2, chapter 3.

(8) The records of the commission are confidential information as defined in [section 2] and are ~~exempt from the provisions of Title 2, chapter 6~~ protected from disclosure. The records are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action unless the records are reviewed by a district court judge and ordered to be provided to the person seeking access. The commission shall disclose conclusions and recommendations upon request but may not disclose information, records, or data that are otherwise confidential. The commission may not use the information, records, or data for purposes other than those designated by subsections (2)(a) and (2)(c).

(9) The commission may require any person appearing before it to sign a confidentiality agreement created by the commission in order to maintain the confidentiality of the proceedings. In addition, the commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(10) A member of the commission who knowingly uses information obtained pursuant to subsection (6) for a purpose not authorized in subsection (2) or who discloses information in violation of subsection (8) is subject to a civil penalty of not more than \$500.

(11) The commission shall report its findings and recommendations in writing to the law and justice interim committee, the attorney general, the governor, and the chief justice of the Montana supreme court prior to each regular legislative session. The report must be made available to the public through the office of the attorney general. The commission may issue data or other information periodically, in addition to the biennial report."

Section 33. Section 5-11-203, MCA, is amended to read:

"5-11-203. Distribution of session laws -- ~~inspection~~ examination of journals. (1) Immediately after the session laws are published, the legislative services division shall distribute them.

(2) The legislative services division shall make the house and senate journals available for ~~inspection~~

examination or copying by the public as provided in ~~Title 2, chapter 6, part 1~~ [sections 1 through 12]. The legislative services division may publish the journals in an electronic format.

(3) The following entities may receive the number of copies of session laws listed at no cost:

- (a) to the library of congress, eight copies;
- (b) to the state library, two copies;
- (c) to the state historical library, two copies;
- (d) to the state law librarian, four copies for the use of the library and additional copies as may be required for exchange with libraries and institutions maintained by other states and territories and public libraries;
- (e) to the library of each custodial institution, one copy;
- (f) to each Montana member of congress, each United States district judge in Montana, each of the judges of the state supreme and district courts, and each of the state officers as defined in 2-2-102, one copy;
- (g) to any agency, board, commission, or office of the state, other than a state officer, and to any other subdivision of the state upon request and approval by the legislative council, one copy;
- (h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house of representatives from the session at which the laws were adopted, one copy;
- (i) to each of the community college districts of the state, as defined in 20-15-101, and each unit of the Montana university system, one copy;
- (j) to each county clerk, one copy for the use of the county; and
- (k) to each county attorney and to each clerk of a district court, one copy."

Section 34. Section 7-4-2614, MCA, is amended to read:

"7-4-2614. Records of certificates of discharge from military service. (1) It is the duty of the county clerk of any county of this state to record, without charge and in a book kept for that purpose, the certificate of discharge of an honorably discharged person who served with the United States forces upon that person's request. It is not the clerk's duty to file the certificate.

(2) A record of a military discharge certificate is confidential information as defined in [section 2] and ~~exempt from the provisions of Title 2, chapter 6~~ is protected from disclosure. A military discharge certificate may be disclosed only to:

- (a) the service member for whom the certificate was recorded;

(b) if the service member is deceased, the next of kin of the service member or a mortuary, as defined in 10-2-111, for the purposes of securing the burial benefits to which the service member is entitled;

(c) a veterans' service officer or a veterans' service organization, as defined in 10-2-111;

(d) the veterans' affairs division of the Montana department of military affairs; or

(e) any person with written authorization from the service member or from the next of kin of the service member, if the service member is deceased.

(3) If an original discharge certificate was inadvertently filed and the county clerk still retains the certificate in its original form, upon the written request of the service member or of the service member's next of kin if the service member is deceased, the clerk shall return the filed certificate to the service member or to the service member's next of kin if the service member is deceased.

(4) For purposes of this section:

(a) "file" means to store in original form; and

(b) "record" means to make and keep a copy from which a certified original copy can be reproduced."

Section 35. Section 7-5-2132, MCA, is amended to read:

"7-5-2132. Destruction of county records. Upon the order of the board of county commissioners and with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~ [section 23], a county officer may destroy records that have met the retention period, as contained in the local government records retention and disposition schedules, and that are no longer needed by the office."

Section 36. Section 7-5-4124, MCA, is amended to read:

"7-5-4124. Destruction of municipal records. Upon the order of the city or town council or commission and with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~ [section 23], a city or town officer may destroy records that have met the retention period, as contained in the local government records retention and disposition schedules, and that are no longer needed by the office."

Section 37. Section 7-11-1007, MCA, is amended to read:

"7-11-1007. Public hearing -- resolution of intention to create special district. (1) The governing body shall hold at least one public hearing concerning the creation of a proposed special district prior to the

passage of a resolution of intention to create the special district. A resolution of intention to create a special district may be based upon a decision of the governing body as provided in 7-11-1003(1)(a) or upon a petition that contains the required number of signatures as provided in 7-11-1003(1)(b).

(2) The resolution must designate:

- (a) the proposed name of the special district;
- (b) the necessity for the proposed special district;
- (c) a general description of the territory or lands to be included within the proposed special district, giving the boundaries of the proposed special district;
- (d) the general character of any proposed improvements and the proposed location for the proposed program or improvements;
- (e) the estimated cost and method of financing the proposed program or improvements;
- (f) any requirements specifically applicable to the type of special district;
- (g) whether the proposed special district would be administered by the governing body or an appointed or elected board; and
- (h) the duration of the proposed special district.

(3) (a) The governing body shall publish notice of passage of the resolution of intention to create a special district as provided in 7-1-2121 and 7-1-2122 or 7-1-4127 and 7-1-4129, as applicable. The notice must contain a notice of a hearing and the time and place where the hearing will be held.

(b) At the same time that notice is published pursuant to subsection (3)(a), the governing body shall provide a list of those properties subject to potential assessment, fees, or taxation under the creation of the proposed special district. The list may not be distributed or sold for use as a ~~mailing~~ distribution list in accordance with ~~2-6-109~~ [section 11].

(c) A copy of the notice described in subsection (3)(a) must be mailed to each owner or purchaser under contract for deed of the property included on the list referred to in subsection (3)(b) as shown by the current property tax record maintained by the department of revenue for the county."

Section 38. Section 13-1-303, MCA, is amended to read:

"13-1-303. Disposition of ballots and other election materials. (1) (a) Except for a federal election and as provided in 13-15-301(2), the voted ballots, detached stubs, unvoted ballots, and unused ballots from an

election must be kept in the unopened packages received from the election judges for a period of 12 months. The packages may be opened only when an order for opening is given by the proper official either for a recount procedure or to process provisional ballots.

(b) The voted ballots, detached stubs, unvoted ballots, and unused ballots from a federal election must be retained in the unopened packages received from the election judges for a period of 22 months. The packages may be opened only as provided in subsection (1)(a) or for a postelection random-sample audit of vote-counting machines.

(c) An election administrator may dispose of the ballots as provided in subsection (2) if after the time periods provided for in this subsection (1), there is no:

- (i) contest begun;
- (ii) recount pending; or
- (iii) appeal of a decision relating to a contest, a recount, or a postelection random-sample audit.

(2) Each election administrator shall prepare a plan for retention and destruction of election records in the county according to the retention schedules established by the local government records committee provided for in ~~2-6-402~~ [section 22]."

Section 39. Section 13-21-228, MCA, is amended to read:

"13-21-228. Use of voter's e-mail address. (1) A local election official shall request an e-mail address from each covered voter who registers to vote after January 1, 2014.

(2) An e-mail address provided by a covered voter may not be made available to the public or any individual or organization other than a state or local election official and is ~~exempt from disclosure under Title 2, chapter 6~~ confidential information as defined in [section 2].

(3) The address may be used only for official communication with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission and verifying the voter's mailing address and physical location."

Section 40. Section 15-1-103, MCA, is amended to read:

"15-1-103. Disposal of tax records -- procedure. (1) Notwithstanding any other provisions of law, the department may dispose of tax records more than 3 years old if the records do not have any further value or as

provided in subsection (3).

(2) Authorization for disposal of tax records must be made by the director of the department or authorized employees of the department. A copy of the authorization and authenticated list of the records must be maintained by the department.

(3) The department may dispose of its original tax records after those records have been reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in 2-6-208 [section 15]. The department shall maintain the reproduction as the public record. The reproduction or certified copy of the reproduction may be used in place of the department's original in any court or proceeding and has the same force and effect as the department's original record."

Section 41. Section 15-1-521, MCA, is amended to read:

"15-1-521. Property valuation improvement fund. There is an account in the state special revenue fund to be used by the department for increasing the efficiency of the property appraisal, assessment, and taxation process through improvements in technology and administration. The department shall deposit fees collected pursuant to ~~2-6-110(3)~~ [section 5] in the account."

Section 42. Section 15-62-209, MCA, is amended to read:

"15-62-209. Access to records. Information that identifies the contributor, account owner, or designated beneficiary of a family education savings account is ~~exempt from the provisions of 2-6-102 and 2-6-104 and any other confidential information as defined in [section 2] and is exempt from any provision of law permitting the public inspection examination or copying of documents.~~ The provisions of this section may not prevent the release of information about a specific designated beneficiary to a higher education institution at which the designated beneficiary is enrolled or to which the designated beneficiary has applied for admission."

Section 43. Section 17-8-403, MCA, is amended to read:

"17-8-403. False claims -- procedures -- penalties. (1) Except as provided in subsection (2), a person is liable to a governmental entity for a civil penalty of not less than \$5,500 and not more than \$11,000 for each act specified in this section, plus three times the amount of damages that a governmental entity sustains, along with expenses, costs, and attorney fees, if the person:

(a) knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;
 (b) knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;

(c) conspires to commit a violation of this subsection (1);

(d) has possession, custody, or control of public property or money used or to be used by the governmental entity and knowingly delivers or causes to be delivered less than all of the property or money;

(e) is authorized to make or deliver a document certifying receipt of property used or to be used by the governmental entity and, with the intent to defraud the governmental entity or to willfully conceal the property, makes or delivers a receipt without completely knowing that the information on the receipt is true;

(f) knowingly buys or receives as a pledge of an obligation or debt public property of the governmental entity from any person who may not lawfully sell or pledge the property;

(g) knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to a governmental entity or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to a governmental entity; or

(h) as a beneficiary of an inadvertent submission of a false or fraudulent claim to the governmental entity, subsequently discovers the falsity of the claim or that the claim is fraudulent and fails to disclose the false or fraudulent claim to the governmental entity within a reasonable time after discovery of the false or fraudulent claim.

(2) In a civil action brought under 17-8-405 or 17-8-406, a court shall assess a civil penalty of not less than \$5,500 and not more than \$11,000 for each act specified in this section, plus not less than two times and not more than three times the amount of damages that a governmental entity sustains if the court finds all of the following:

(a) The person committing the act furnished the government attorney with all information known to that person about the act within 30 days after the date on which the person first obtained the information.

(b) The person fully cooperated with any investigation of the act by the government attorney.

(c) At the time that the person furnished the government attorney with information about the act, a criminal prosecution, civil action, or administrative action had not been commenced with respect to the act and the person did not have actual knowledge of the existence of an investigation into the act.

(3) A person who violates the provisions of this section is also liable to the governmental entity for the

expenses, costs, and attorney fees of the civil action brought to recover the penalty or damages.

(4) Liability under this section is joint and several for any act committed by two or more persons.

(5) This section does not apply to claims, records, or statements made in relation to claims filed with the state compensation insurance fund under Title 39, chapter 71, or to claims, records, payments, or statements made under the tax laws contained in Title 15 or 16 or made to the department of natural resources and conservation under Title 77.

(6) (a) A court shall dismiss an action or claim brought under 17-8-406, unless opposed by the governmental entity or unless the action is brought by the government attorney or the person who is the original source of the information, if substantially the same allegations or transactions alleged in the action or claim were publicly disclosed in:

(i) a criminal, civil, or administrative hearing in which the governmental entity or an agent of the governmental entity is a party;

(ii) a state legislative, state auditor, or other governmental entity report, hearing, audit, or investigation;
or

(iii) the news media.

(b) The production of a record pursuant to Article II, section 9, of the Montana constitution or ~~Title 2, chapter 6, [section 3]~~ is not a public disclosure for purposes of this section.

(c) For purposes of this subsection (6), "original source" means an individual who:

(i) prior to a public disclosure, voluntarily disclosed to the governmental entity the information on which the allegations or transactions in a claim are based; or

(ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations and transactions and voluntarily provided the information to the governmental entity before filing an action.

(7) A person may not file a complaint or civil action brought under 17-8-406 against the state or an officer or employee of the state arising from conduct by the officer or employee within the scope of the officer's or employee's duties to the state unless the officer or employee has a financial interest in the conduct upon which the complaint or civil action arises.

(8) The amount of the civil penalty set forth in subsections (1) and (2) must be adjusted for inflation in a manner consistent with the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410.

(9) If a governmental entity does not intervene, the person who initiated the action has the same right

to conduct the action as the government attorney would have had if the governmental entity had intervened, including the right to inspect government records and interview officers and employees of the governmental entity."

Section 44. Section 18-4-126, MCA, is amended to read:

"18-4-126. Public access to procurement information -- records -- retention. (1) Procurement information is a public ~~writing~~ record and must be available to the public as provided in ~~2-6-102~~ [section 3], 18-4-303, and 18-4-304.

(2) All procurement records must be retained, managed, and disposed of in accordance with ~~the state records management program, Title 2, chapter 6~~ the provisions of [sections 1 through 21].

(3) Written determinations required by this chapter must be retained in the appropriate official contract file of the department or the purchasing agency administering the procurement in accordance with ~~the state records management program~~ [sections 1 through 21]."

Section 45. Section 19-2-403, MCA, is amended to read:

"19-2-403. Powers and duties of board. (1) The board shall administer the provisions of the chapters enumerated in 19-2-302.

(2) The board may establish rules that it considers proper for the administration and operation of the retirement systems and enforcement of the chapters under which each retirement system is established.

(3) The board shall establish uniform rules that are necessary to determine service credit for fractional years of service.

(4) The board shall determine who are employees within the meaning of each retirement system. The board is the sole authority for determining the conditions under which persons may become members of and receive benefits under the retirement systems. A person whose job duties require proportional membership in more than one retirement system is subject to the provisions of those systems.

(5) If fraud or error results in an employee or member being reported to the incorrect retirement system, the board shall correct the error and adjust contributions as necessary.

(6) The board shall determine and may modify retirement benefits under the retirement systems. Benefits may be paid only if the board decides, in its discretion, that the applicant is, under the provisions of the

appropriate retirement system, entitled to the benefits.

(7) In matters of board discretion under the systems, the board shall treat all persons in similar circumstances in a uniform and nondiscriminatory manner.

(8) The board shall maintain records and accounts it determines necessary for the administration of the retirement systems.

(9) The board shall enter into memoranda of understanding with the teachers' retirement system to exchange retirement system-related confidential information regarding members, former members, or retirees. A memorandum must state that:

(a) the information may be used only for reasons related to verifying appropriate pension plan participation; and

(b) the requesting retirement system agrees to protect the confidentiality of the information and will disclose the requested information only as necessary to conduct official business.

(10) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt actuarial rates and rates of regular interest it determines appropriate for the administration of the retirement systems.

(11) The board shall review the sufficiency of benefits paid by the retirement system or plan and recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under the defined contribution plan that may be necessary for members and their beneficiaries to maintain a stable standard of living.

(12) The board may implement third-party mailings under the provisions of ~~2-6-109~~ [section 11]. If third-party mailings are implemented, the board shall adopt rules governing means of implementation, including the specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees generated by third-party mailings must be deposited in the appropriate retirement system fund for the benefit of participants of retirement systems or plans administered by the board.

(13) In discharging duties, the board, a member of the board, or an authorized representative of the board may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(14) The board may by rule or otherwise delegate to the board's executive director or any other staff

member any of the powers or duties conferred by law upon the board except as otherwise provided by law and except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection (13) or the contested case procedure of the Montana Administrative Procedure Act.

(15) The board shall perform other duties and may exercise the powers concerning the defined contribution plan for plan members as provided in chapter 3, part 21, of this title."

Section 46. Section 19-17-111, MCA, is amended to read:

"19-17-111. Records information management. (1) The chief or designated official of a fire company shall maintain the records provided for in 19-17-108 and 19-17-110 for each active or inactive member of the fire company.

(2) Records must be maintained according to the state of Montana general records retention schedules, as published by the secretary of state pursuant to ~~Title 2, chapter 6~~ sections 13 through 21."

Section 47. Section 22-1-211, MCA, is amended to read:

"22-1-211. Definitions. As used in this part, the following definitions apply:

(1) "Depository library" means a library contracted by the state library under 22-1-212(2) to provide the general public access to state publications.

(2) "State agency" means any entity established or authorized by law to govern operations of the state, such as a state office, officer, department, division, section, bureau, board, commission, council, and agency of the state and all subdivisions of each.

(3) (a) "State publication" means any information originating in or produced by the authority of a state agency or at the total or partial expense of a state agency that the agency intends to distribute outside the agency, regardless of format or medium, source or copyright, license, or trademark.

(b) The term does not include information intended only for distribution to contractors or grantees of the agency, persons within the agency, or members of the public under ~~2-6-102~~ section 3 or information produced by a state agency that is intended strictly for internal administrative or operational purposes."

Section 48. Section 30-9a-522, MCA, is amended to read:

"30-9A-522. Maintenance and destruction of records. (1) Subject to the requirements of ~~Title 2,~~

~~chapter 6, part 2~~ [sections 13 through 21], the filing office shall maintain a record of the information provided in a filed financing statement for at least 1 year after the effectiveness of the filed financing statement has lapsed under 30-9A-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and:

(a) if the record was filed or recorded in the filing office described in 30-9A-501(1)(a), by using the file number assigned to the initial financing statement to which the record relates and the date and time that the record was filed or recorded; or

(b) if the record was filed or recorded in the filing office described in 30-9A-501(1)(b), by using the date and time file number assigned to the initial financing statement to which the record relates.

(2) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office may immediately destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement that complies with subsection (1)."

Section 49. Section 30-14-1603, MCA, is amended to read:

"30-14-1603. Department to provide for no-call list database -- rules -- inclusion of national database -- database not public record -- no cost to subscribers. (1) The department shall provide for the operation of a database containing a list of names and telephone numbers of residential subscribers who object to receiving telephone solicitations. A residential subscriber may be listed in the database without cost to the subscriber.

(2) The department shall promulgate rules and regulations governing the state no-call database that are necessary and appropriate to fully implement the provisions of this part. The rules must include but are not limited to rules specifying:

(a) the methods by which each residential subscriber may give notice to the department or a contractor designated by the department of the residential subscriber's objection to receiving telephone solicitations or the methods by which the residential subscriber may revoke the notice;

(b) the length of time for which a notice of objection is effective and the effect of a change of telephone number on the notice;

(c) the methods by which pertinent information may be collected and added to the no-call database;

(d) the methods for obtaining access to the no-call database by any person or entity desiring to make telephone solicitations if that person or entity is required to avoid calling the residential subscribers included in the no-call database;

(e) the cost to be assessed to a person or entity that is required to obtain access to the no-call database; and

(f) other matters relating to the no-call database that the department considers desirable.

(3) If the federal communications commission establishes a single national database of telephone numbers of residential subscribers who object to receiving telephone solicitations pursuant to 47 U.S.C. 227(c)(3), the department shall include that part of the single national database that relates to Montana in the no-call database established pursuant to this section.

(4) Information contained in the no-call database established pursuant to this section may be used only for the purpose of compliance with 30-14-1602 and this section or in a proceeding or action pursuant to 30-14-1605. The information ~~may not be considered a public record~~ is confidential information as defined in [section 2] pursuant to Title 2, chapter 6 and is protected from disclosure.

(5) In April, July, October, and January of each year, the department shall make a reasonable attempt to obtain subscription listings of residential subscribers in this state who have arranged to be included on any national no-call list and add those names to the state no-call list."

Section 50. Section 30-17-101, MCA, is amended to read:

"30-17-101. Electronic directory of Montana products. (1) (a) The department of commerce shall provide an electronic directory on the internet ~~or world wide web~~ of Montana businesses that market products qualifying as made in Montana or grown in Montana, as described in subsection (5).

(b) The department may make a decision on the appropriateness of listing a business on the electronic directory based upon the content or use of the products offered by the business.

(2) (a) The electronic directory may be compiled from eligible businesses that have contacted the department of commerce and that have agreed to be listed electronically on the internet ~~or world wide web~~. Agreement by a company also means that the company grants permission for inclusion on a ~~mailing~~ distribution list pursuant to ~~2-6-109(1)~~ [section 11(1)].

(b) The department of commerce is not responsible for listing a company if that company has not

contacted the department, has not agreed to a listing pursuant to subsection (2), or does not qualify as having products made in Montana or grown in Montana.

(3) The electronic directory may contain information allowing a potential customer to access directly a business listed in the directory by telephone, mail, or electronic links if the business works with the department of commerce to facilitate and maintain direct access.

(4) The department of commerce may not process orders for a business listed in the electronic directory and is not responsible for handling customer questions or complaints on behalf of a business listed in the electronic directory.

(5) For the purposes of this section, a product is considered made in Montana or grown in Montana if the product has 50% or greater value-added within the state.

(6) For the purposes of this section, "value-added" means a finished product that has been created, made, produced, or enhanced in Montana by Montana residents resulting in a 50% or greater value-added product."

Section 51. Section 32-11-107, MCA, is amended to read:

"32-11-107. Confidentiality. (1) The director and other employees of the department may not disclose information acquired by them in the discharge of their duties under this chapter except to the extent that disclosure of the information is required by law, other than the public records provisions of ~~Title 2, chapter 6,~~ section 3, or is required by court order.

(2) Notwithstanding subsection (1), the department may disclose information that is confidential under subsection (1) if the department determines that disclosure of the information is necessary to promote the public interest. This subsection does not authorize the disclosure of information acquired by the department in the course of an examination of a licensee.

(3) A BIDCO may provide to a current or prospective creditor or shareholder of the BIDCO a copy of an examination report on the BIDCO made by the department under this chapter."

Section 52. Section 33-1-1403, MCA, is amended to read:

"33-1-1403. Confidentiality. (1) The statement of actuarial opinion must be provided with the annual statement in accordance with the appropriate NAIC property and casualty annual statement instructions and is

a public writing, record within the meaning of ~~2-6-101~~ [section 2].

(2) (a) Actuarial reports, work papers, and actuarial opinion summaries retained by the commissioner are trade secrets and are privileged. The materials must be given confidential treatment, are not subject to subpoena, and are not subject to discovery, and the materials are not admissible in evidence in any private civil litigation.

(b) Subsection (2)(a) does not limit the commissioner's authority to release the documents to the actuarial board for counseling and discipline if the material is required for the board's professional disciplinary proceedings and if the board establishes procedures satisfactory to the commissioner to preserve the confidentiality of the documents.

(3) This section does not limit the commissioner's authority to use the actuarial reports, work papers, actuarial opinion summaries, or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(4) The commissioner and any person who receives actuarial reports, work papers, actuarial opinion summaries, or other information while acting under the authority of the commissioner may not testify in any private civil action concerning the documents or information subject to the provisions of subsection (2).

(5) To assist in the performance of the commissioner's duties, the commissioner may provide and receive documents and information pursuant to 33-1-311.

(6) A waiver of privilege or claim of confidentiality in the actuarial reports, work papers, or actuarial opinion summaries does not result from disclosure to the commissioner under this section or result from the exchange of documents and information authorized in subsections (2)(b) and (5)."

Section 53. Section 33-28-108, MCA, is amended to read:

"33-28-108. Examinations and investigations. (1) (a) The commissioner or some competent person appointed by the commissioner shall examine the affairs, transactions, accounts, records, and assets of each captive insurance company as often as the commissioner considers advisable but no less frequently than every 5 years.

(b) The expenses and charges of the examination must be paid to the commissioner by the company or companies examined.

(2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

(3) Except as provided in subsection (4), all examination reports, preliminary examination reports or results, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company or upon court order.

(4) (a) Subsection (3) does not prevent the commissioner from using information obtained pursuant to this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in the commissioner's discretion, grant access to information obtained pursuant to this section to public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this state or any other state or agency of the federal government at any time, as long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(b) Captive risk retention group reports produced pursuant to the examination requirements of this section are public ~~writings~~ records as defined in ~~2-6-101~~ [section 2].

(5) Except as provided in subsection (6), the provisions of this section apply to all business written by a captive insurance company.

(6) The examination for a branch captive insurance company may only be of branch business and branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107(2)(d) to the satisfaction of the commissioner.

(7) As a condition of licensure of a branch captive insurance company, the foreign captive insurance company shall grant authority to the commissioner for examination of the affairs of the foreign captive insurance company in the jurisdiction in which the foreign captive insurance company is formed."

Section 54. Section 46-23-110, MCA, is amended to read:

"46-23-110. Records -- dissemination. (1) The department and the board shall keep a record of the board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as provided in ~~2-6-102~~ [section 3] and this section.

(2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

(3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board staff member shall review the file requested and determine whether any document in the file is subject to a personal privacy or safety interest that clearly exceeds the merits of public disclosure.

(4) The board may assert the privacy or safety interest and may withhold a document if the board determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the document's contents would compromise the safety, order, or security of a facility or the safety of facility personnel, a member of the public, or an inmate of the facility if disclosed.

(5) The board may not withhold from public scrutiny under subsections (2) through (4) any more information than is required to protect an individual privacy interest or a safety interest.

(6) The board may charge a reasonable fee for copying and inspecting records.

(7) The board may limit the time and place that the records may be inspected or copied."

Section 55. Section 53-21-1108, MCA, is amended to read:

"53-21-1108. (Temporary) Disclosure of information -- confidentiality. (1) The department shall provide the Montana suicide review team with a copy of each death certificate filed with the state that lists suicide as the cause of death. The department may not charge a fee for providing the death certificate.

(2) The suicide review team may request and may receive information from:

(a) a county coroner;

(b) the state medical examiner provided for in 44-3-201;

(c) an appropriate tribal official as designated by a tribe; and

(d) a health care provider as permitted in Title 50, chapter 16, part 5 or 8, or applicable federal law.

(3) Upon request of the suicide review team, a health care provider may disclose information about a patient without the patient's authorization or without the authorization of the representative of a patient who is deceased.

(4) The suicide review team shall maintain the confidentiality of the information received pursuant to 53-21-1105 through 53-21-1110.

(5) Materials and information obtained by the suicide review team are not subject to subpoena ~~or to the requirements related to public records under Title 2, chapter 6,~~ are confidential information as defined in [section 2], and are protected from disclosure under [section 3]. (Terminates June 30, 2016--sec. 16, ch. 353, L. 2013.)"

Section 56. Section 61-6-157, MCA, is amended to read:

"61-6-157. Creation of online motor vehicle liability insurance verification system. (1) The department, in cooperation with the commissioner of insurance, shall establish an accessible common carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or operator with motor vehicle liability policy requirements under 61-6-103, 61-6-301, and 61-6-302 and facilitate or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134.

(2) The department may contract with a private vendor or vendors to establish and maintain the system.

(3) The system must:

(a) send requests to insurers for verification of motor vehicle liability insurance using electronic services established by the insurers, through the internet, world wide web, or a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards;

(b) include appropriate provisions to secure its data against unauthorized access and to maintain a record of all requests and responses;

(c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, county treasurers, and authorized agents under the provisions of 61-3-116;

(d) interface, wherever possible, with existing department and law enforcement systems;

(e) receive insurance data file transfers from insurers under specifications and standards set forth in subsection (3)(a) to identify vehicles that are not covered by an insurance policy;

(f) provide a means by which low-volume insurers that are unable to deploy an online interface with the system can report insurance policy data to the department or its designee for inclusion in the system;

(g) provide a means to track separately or distinguish motor vehicles that are subject to a certificate of self-insurance under 61-6-143, a surety or indemnity bond under 61-6-137 or 61-6-301, or a deposit of cash or securities under 61-6-138;

(h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed by the department; and

(i) be used only for information-gathering and educational purposes until the completion of an appropriate

testing period of not less than 6 months.

(4) The provisions of ~~Title 2, chapter 6, parts 1 and 2, [sections 1 through 20]~~ do not apply to the information contained in the verification system.

(5) Every insurer shall cooperate with the department in establishing and maintaining the system and shall provide access to motor vehicle liability policy status information to verify liability coverage:

- (a) for a vehicle insured by that company that is registered in this state; and
- (b) if available, for a vehicle that is insured by that company or that is operated in this state and that is the subject of an accident investigation regardless of where the vehicle is registered."

Section 57. Section 61-11-510, MCA, is amended to read:

"61-11-510. Prerequisites to disclosure. (1) Prior to the disclosure of personal information or highly restricted personal information, as provided in 61-11-507, 61-11-508, or 61-11-509, the department shall require the requester to complete and submit an application, in a form prescribed by the department, identifying the requester and specifying the statutorily recognized uses for which the personal information or highly restricted personal information is being sought.

(2) The department shall require the requester to provide identification acceptable to the department.

(3) (a) The department shall collect the appropriate fees paid by the requester and shall determine the amount of the fees in accordance with 61-3-101, 61-11-105, and this subsection (3), and as appropriate, in accordance with the terms of a contract between the department and the requester.

(b) The department shall ensure that fees established by policy or contract:

- (i) recover the department's cost and expenses as provided in ~~2-6-110(2)~~ [section 4] and 61-3-101;
- (ii) include an additional amount necessary to compensate the department for costs associated with developing and maintaining the database from which information is requested; and
- (iii) incorporate, when applicable, the convenience fee established under 2-17-1103.

(c) Except as provided in 61-11-105(5)(b) and subsection (3)(d) of this section, the department shall charge a fee to any person, including a representative of a federal, state, or local government entity or member of the news media who requests information under this section.

(d) The department may not charge a fee for information requested by the governor's office of budget and program planning, the state tax appeal board, any legislative branch agency or committee, or any criminal

justice agency, as defined in 44-5-103."

Section 58. Section 81-2-115, MCA, is amended to read:

"81-2-115. Confidentiality of information collected -- exceptions. (1) Except as provided in subsections (2) through (4), all information regarding the testing of any livestock that is owned by or in the possession or custody of a livestock producer, livestock dealer as defined in 81-8-213, or livestock market as defined in 81-8-213 that is collected by the department:

- (a) must be held confidential by the department and its employees;
- (b) is not a public writing as described in 2-6-101 and is exempt from the public disclosure provisions of Title 2, chapter 6 record or public information as defined in [section 2] and is exempt from disclosure; and
- (c) is not subject to discovery or introduction into evidence in any civil action.

(2) For the purposes of this section, "livestock" has the meaning provided in 81-2-702.

(3) The administrator, appointed pursuant to 81-1-301, may disclose information collected by the department from individual livestock producers, livestock dealers, or livestock markets for the purposes of the department's animal health programs whenever in the administrator's judgment the disclosure will assist in the implementation of the animal health programs. The administrator may disclose the information to another governmental entity pursuant to the conditions described in subsection (4) or if the governmental entity confirms in writing that the entity will maintain the confidentiality of the information.

(4) Animal disease diagnostic tests that identify the owner of the animal tested may not be disclosed unless:

- (a) the administrator determines that disclosure is necessary to prevent the spread of an animal disease or to protect the public health;
- (b) the owner gives written permission to disclose the information;
- (c) the information is disclosed in actions or administrative proceedings commenced under the provisions of Title 81, chapter 2, 4, 5, 6, 8, 9, or 30;
- (d) disclosure is required by subpoena or court order; or
- (e) the information is disclosed to a law enforcement agency in connection with the investigation or prosecution of criminal offenses.

(5) Upon release by the administrator or the board of any information to any other governmental entity

or to any person, the administrator shall:

(a) notify the person to whom the information refers or pertains that the release has been made and the name of the governmental entity or person to whom the information was released; and

(b) provide to the person to whom the information refers a copy or summary of the information contained in the release."

Section 59. Repealer. The following sections of the Montana Code Annotated are repealed:

- 2-6-101. Definitions.
- 2-6-102. Citizens entitled to inspect and copy public writings.
- 2-6-103. Filing and copying fees.
- 2-6-104. Records of officers open to public inspection.
- 2-6-105. Removal of public records.
- 2-6-106. Possession of records.
- 2-6-107. Proceedings to compel delivery of records.
- 2-6-108. Attachment and warrant to enforce.
- 2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.
- 2-6-110. Electronic information and nonprint records -- public access -- fees.
- 2-6-111. Custody and reproduction of records by secretary of state.
- 2-6-112. Concealment of public hazards prohibited -- concealment of information related to settlement or resolution of civil suits prohibited.
- 2-6-201. Purpose.
- 2-6-202. Definitions.
- 2-6-203. Secretary of state's powers and duties -- rulemaking authority.
- 2-6-204. State records committee approval.
- 2-6-205. Preservation of public records.
- 2-6-206. Protection and storage of essential records.
- 2-6-207. Certified copies of public records.
- 2-6-208. Records committee -- composition and meetings.
- 2-6-211. Transfer and storage of public records.

- 2-6-212. Disposal of public records.
- 2-6-213. Agency responsibilities and transfer schedules.
- 2-6-214. Department of administration -- powers and duties.
- 2-6-301. Definitions.
- 2-6-302. Official records management -- powers and duties.
- 2-6-303. Ownership of records -- transfer.
- 2-6-304. Outgoing officials -- records management duties.
- 2-6-307. Certified copies of official records.
- 2-6-401. Definitions.
- 2-6-402. Local government records committee -- creation.
- 2-6-403. Duties and responsibilities.
- 2-6-404. Rulemaking authority.
- 2-6-405. Destruction of local government public records prohibited prior to offering -- central registry -- notification.
- 2-6-501. Definitions.
- 2-6-502. Protection of social security numbers -- compliance.
- 2-6-503. Extensions.
- 2-6-504. Notification of breach of security of data system.

Section 60. Codification instruction. (1) [Sections 1 through 27] are intended to be codified as an integral part of Title 2, chapter 6, and the provisions of Title 2, chapter 6, apply to [sections 1 through 27].

(2) [Section 28] is intended to be codified as an integral part of Title 2, chapter 15, part 4, and the provisions of Title 2, chapter 15, part 4, apply to [section 28].

Section 61. Coordination instruction. If both House Bill No. 74 and [this act] are passed and approved, then [section 25 of this act] must be amended as follows:

"NEW SECTION. Section 25. Definitions. As used in [sections 25 through 27], the following definitions apply:

- (1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of

computerized data that:

(a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of a state agency; and

(b) causes or is reasonably believed to cause loss or injury to a person.

(2) "Individual" means a human being.

(3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character.

(4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and data elements are not encrypted:

(i) a social security number ~~or tax identification number~~;

(ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; ~~or~~

(iii) an account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to a person's financial account;

(iv) medical record information as defined in 33-19-104;

(v) a taxpayer identification number; or

(vi) an identity protection personal identification number issued by the United States internal revenue service.

(b) The term does not include publicly available information from federal, state, local, or tribal government records.

(5) "Redaction" means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.

(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.

(b) The term does not include an entity of the judicial branch.

(7) "Third party" means:

- (a) a person with a contractual obligation to perform a function for a state agency; or
- (b) a state agency with a contractual or other obligation to perform a function for another state agency."

Section 62. Coordination instruction. If both House Bill No. 74 and [this act] are passed and approved, then [section 27 of this act] must be amended as follows:

"NEW SECTION. **Section 27. Notification of breach of security of data system.** (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person.

(b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.

(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system to perform a state agency function shall:

(i) notify the state agency immediately following discovery of the breach if the personal information is reasonably believed to have been acquired by an unauthorized person; and

(ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as part of the breach. This notification must be provided in the same manner as the notification required in subsection (1).

(b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not

compromise the investigation.

(4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain:

- (a) an information security policy designed to safeguard personal information; and
- (b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).

(5) A state agency or third party that is required to issue a notification to an individual pursuant to this section shall simultaneously submit to the state's chief information officer at the department of administration and to the attorney general's consumer protection office an electronic copy of the notification and a statement providing the date and method of distribution of the notification. The electronic copy and statement of notification must exclude any information that identifies the person who is entitled to receive notification. If a notification is made to more than one person, a single copy of the notification that includes the number of people who were notified must be submitted to the chief information officer and the consumer protection office."

Section 63. Coordination instruction. If both House Bill No. 448 and [this act] are passed and approved and if both contain a section that amends 2-3-221, then House Bill No. 448 is void.

Section 64. Coordination instruction. If both House Bill No. 28 and [this act] are passed and approved, then the reference in House Bill No. 28 to "2-6-102, 2-6-110" in [section 1(1)(a)] must be changed to "[sections 3 through 5 of House Bill No. 123]".

Section 65. Coordination instruction. If both House Bill No. 608 and [this act] are passed and approved, then the reference in House Bill No. 608 to "2-6-102" in [section 6(3)] must be changed to "[section 3 of House Bill No. 123]".

Section 66. Coordination instruction. If both Senate Bill No. 399 and [this act] are passed and approved, then the reference in Senate Bill No. 399 to "2-6-102 and 2-6-104" in [section 13] must be changed to [section 3 of House Bill No. 123]".

Section 67. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 8(1) of House Bill No. 119] must be amended as follows:

"(1) Information provided or developed under [sections 1 through 9] for an own risk and solvency assessment or ORSA summary report and in the possession of or control of the commissioner or any other person under [sections 1 through 9] is recognized as proprietary and containing trade secrets. The information is confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, is not admissible ~~as in~~ evidence in any civil action, and is not subject to subpoena, discovery, ~~the provisions of 2-6-102,~~ or the provisions of the Freedom of Information Act, 5 U.S.C. 552."

Section 68. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 8(8) of House Bill No. 119] must be amended as follows:

"(8) Information in the possession of or control of the NAIC or a third-party consultant pursuant to [sections 1 through 9] is confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, is not admissible in evidence in any private civil action, and is not subject to ~~2-6-102,~~ subpoena, or discovery."

Section 69. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 15(1) of House Bill No. 119] must be amended as follows:

"(1) Except as provided in subsection (9), a company's confidential information is confidential information as provided in [section 2 of House Bill No. 123] ~~confidential~~ and privileged, ~~and~~ is not subject to subpoena, ~~or~~ discovery, ~~or public information requests under 2-6-102 or~~ and is not admissible in evidence in any private civil action."

Section 70. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 31(1) of House Bill No. 119], amending 33-2-116(1), must be amended as follows:

"(1) Documents, materials, and other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to 33-2-1115 and all information reported pursuant to 33-2-1104(3)(l), 33-2-1104(3)(m), 33-2-1111, and 33-2-1113 ~~must be~~ are confidential ~~by law~~ information as provided in [section

2 of House Bill No. 123] and privileged, are not subject to ~~2-6-102~~, subpoena, or discovery, and are not admissible in evidence in any private civil action. The commissioner is authorized to use the documents, materials, and other information to further any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner may not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which the documents, materials, or other information pertains unless the commissioner, after giving notice and an opportunity to be heard to the insurer and the insurer's affiliates who would be affected, determines that the interest of policyholders, shareholders, or the public would be served by the publication. On a determination that the interest of policyholders, shareholders, or the public would be served, the commissioner may publish all or any part of the documents, materials, or other information in a manner that the commissioner considers appropriate."

Section 71. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 31(7) of House Bill No. 119], amending 33-2-1116(7), must be amended as follows:

"(7) Documents, materials, and other information in the possession or control of the NAIC pursuant to [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section are confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, are not admissible in evidence in a private civil action, and are not subject to ~~2-6-102~~, subpoena, or discovery."

Section 72. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

- END -

I hereby certify that the within bill,
HB 0123, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2015.

President of the Senate

Signed this _____ day
of _____, 2015.

HOUSE BILL NO. 123

INTRODUCED BY D. JONES

BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

AN ACT GENERALLY REVISING AND REORGANIZING MONTANA PUBLIC RECORDS LAWS; UPDATING DEFINITIONS AND PROVIDING NEW DEFINITIONS; CLARIFYING ACCESS TO PUBLIC INFORMATION; PROVIDING SAFETY AND SECURITY EXCEPTIONS; PROVIDING A PROCEDURE FOR PUBLIC INFORMATION REQUESTS; ALLOWING FEES FOR PUBLIC INFORMATION REQUESTS; ALLOWING SPECIAL FEES FOR CERTAIN INFORMATION; EMPHASIZING THE DISPOSITION OF PUBLIC RECORDS ACCORDING TO RETENTION SCHEDULES; UPDATING THE REQUIREMENTS FOR ESSENTIAL RECORDS; CLARIFYING THE PROHIBITION ON DISSEMINATING DISTRIBUTION LISTS; REVISING THE RECORDS MANAGEMENT DUTIES OF THE SECRETARY OF STATE; REQUIRING COLLABORATION BETWEEN THE DEPARTMENT OF ADMINISTRATION AND THE SECRETARY OF STATE; EXPANDING THE MEMBERSHIP AND DUTIES OF THE STATE RECORDS COMMITTEE; PROVIDING POWERS AND DUTIES OF THE MONTANA HISTORICAL SOCIETY FOR MANAGING HISTORIC RECORDS AND CONSTITUTIONAL OFFICER RECORDS; CLARIFYING AGENCY RESPONSIBILITIES FOR RECORDS MANAGEMENT; REVISING MEMBERSHIP AND DUTIES OF THE LOCAL GOVERNMENT RECORDS COMMITTEE; REDUCING THE NOTICE REQUIREMENTS BEFORE DESTRUCTION OF CERTAIN LOCAL GOVERNMENT RECORDS; UPDATING PROTECTIONS OF PERSONAL INFORMATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-3-212, 2-3-221, 2-3-301, 2-15-2017, 5-11-203, 7-4-2614, 7-5-2132, 7-5-4124, 7-11-1007, 13-1-303, 13-21-228, 15-1-103, 15-1-521, 15-62-209, 17-8-403, 18-4-126, 19-2-403, 19-17-111, 22-1-211, 30-9A-522, 30-14-1603, 30-17-101, 32-11-107, 33-1-1403, 33-28-108, 46-23-110, 53-21-1108, 61-6-157, 61-11-510, AND 81-2-115, MCA; AND REPEALING SECTIONS 2-6-101, 2-6-102, 2-6-103, 2-6-104, 2-6-105, 2-6-106, 2-6-107, 2-6-108, 2-6-109, 2-6-110, 2-6-111, 2-6-112, 2-6-201, 2-6-202, 2-6-203, 2-6-204, 2-6-205, 2-6-206, 2-6-207, 2-6-208, 2-6-211, 2-6-212, 2-6-213, 2-6-214, 2-6-301, 2-6-302, 2-6-303, 2-6-304, 2-6-307, 2-6-401, 2-6-402, 2-6-403, 2-6-404, 2-6-405, 2-6-501, 2-6-502, 2-6-503, AND 2-6-504, MCA.



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2017 Biennium

Bill # HB0123

Title: Generally revise public records laws

Primary Sponsor: Jones, Donald W

Status: As Introduced

- ☒ Significant Local Gov Impact
 ☒ Needs to be included in HB 2
 ☒ Technical Concerns
☐ Included in the Executive Budget
 ☐ Significant Long-Term Impacts
 ☐ Dedicated Revenue Form Attached

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
Expenditures:				
General Fund	\$313,519	\$283,063	\$285,770	\$288,519
State Special Revenue Fund	\$17,239	\$16,636	\$16,886	\$17,139
Federal Special Revenue Fund	\$135,698	\$131,012	\$132,977	\$134,972
Other	\$141,208	\$137,346	\$140,055	\$142,774
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue Fund	\$0	\$0	\$0	\$0
Federal Special Revenue Fund	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$140,055	\$142,774
Net Impact-General Fund Balance:	<u>(\$313,519)</u>	<u>(\$283,063)</u>	<u>(\$285,770)</u>	<u>(\$288,519)</u>

Description of fiscal impact: HB 123 adds complexity to the existing records management laws which would increase the time requirements and competencies necessary for the designated qualified agency records manager.

**** Costs that could be identified have been reflected in this fiscal note. However, several agencies indicated they could not quantify the fiscal impact of the bill. Additional FTE and funding support would be needed to implement this legislation above the costs reflected above.**

FISCAL ANALYSIS

Assumptions:

Governor's Office

- To comply with the responsibilities and duties in HB 123, records management must be a primary role for the designated manager. Currently the office does not have any staff members available to dedicate the time and effort toward managing office records to the extent expected by HB 123, and the office would need an

additional 0.50 FTE to oversee records management and staff training for the office. There would be salary and benefits costs, as well as operating costs, associated with the FTE.

2. There will be additional charges from SITSD for the records management system. However, this fiscal note does not include the cost of these charges as they are not known.

Judicial Branch

3. The Judicial Branch is unable to estimate the costs related to establishing a records management plan.
4. The number of district court cases and or hearings may increase as a result of this legislation; however, the Judicial Branch is unable to estimate the impact on judicial workload or the fiscal impact. The cumulative impact of such legislation may eventually require additional judicial resources, because court dockets currently are full in many judicial districts throughout the state.

Department of Justice

5. Due to the increase in requirements, HB 123 will require the department to add 1.15 FTE dedicated to records compliance, procedures, and policies. The department will also incur costs for ongoing, comprehensive legal review and legal advice to divisions, information technology maintenance, and increases in data storage.

Department of Natural Resources and Conservation

6. The department currently accounts for some records management costs, such as physical storage, in existing program budgets. However, as the types of records the state produces continue to become more electronic in nature, the department will need to account for new methods of records management in future biennial budget packages. This could include, but is not limited to, substantially increased costs for electronic records management systems (software, hardware, and data storage costs) and staff time for both the department's records manager and Office of Information Technology staff.
7. Large-scale public information requests and/or data breaches could potentially result in increased time commitments from the department's records manager (up to 75 percent) and a department attorney (up to 25 percent). However, there is no way to specifically quantify the time and resources that would be involved, as both instances are situation-dependent.

Department of Administration

8. The department will have additional costs to hire a qualified records manager, which would be added to the Director's Office internal service fund rates. Salary and benefits for a 1.00 FTE would be \$84,592 in FY 2016, inflated 1.5% for each of the following fiscal years. Operating costs are estimated to be \$9,000 for FY 2016, due to office and computer setup costs, and \$6,000 annually for each subsequent year.

Department of Agriculture

9. The department anticipates that HB 123 will require additional costs related to the storage of electronic documents but is unable to calculate what these costs will be.

Montana Department of Commerce

10. HB 123 would change long term state and local government business processes related to public information. The fiscal impact of the repeal and replacement of these long term statutes are thought to be significant, but they cannot be accurately quantified at this time.

Montana Department of Labor and Industry

11. Section 21 of the bill requires that each agency designate a qualified agency records management coordinator. It also requires that each agency ensure that all agency employees receive adequate and ongoing records management training. As a department of approximately 800 employees located in multiple locations across the state, we estimate that an additional .50 FTE would be required to carry out these records management and training duties.
12. Salary and benefits for a .50 Administrative Specialist position (at Band 6) are estimated to cost \$44,716 in FY 2016 and FY 2017. It is anticipated that these costs will increase by approximately 1.5% per year in each of the following years due to inflation. As such, total salary and benefits are estimated to be \$45,387 in FY 2018 and \$46,068 in FY 2019. It is estimated that this new position will require a new office package

(\$1,600), as well as a new laptop (\$1,300), which will be required for travelling to offsite locations. This will be a one-time expenditure of \$2,900 in 2016.

13. This position will serve all divisions within the agency and thus will be located in the Centralized Services Division. The costs associated with the positions will be paid via the division's proprietary rate, and will need to be considered in proprietary rate calculations.
14. The department currently accounts for some records management costs in existing program budgets (such as physical storage). However, as the types of records the state produces continue to become more electronic in nature, the department may need to account for new methods of records management in future biennial budget packages. This could include, but is not limited to, substantially increased costs for electronic records management systems: software, hardware, data storage costs, and staff time for both the DLI records manager and the Technology Services Division (TSD) staff.
15. Data breaches could potentially result in increased time commitments from the department's records manager in addition to the commitments of legal and TSD staff. However, there is no way to specifically quantify the time and resources that would be involved, as both instances are situation-dependent.

Montana Department of Military Affairs

16. Currently, the department stores records on campus, so there will be additional costs to store documents with the state record center, estimated at \$7,750 initially with a \$93 annual increase.
17. The department would need to hire a 0.75 FTE at a starting salary of \$26,536. New employee equipment charges of \$2,875 are included in FY 2016 (\$1,600 desk and \$1,275 computer).
18. The complexity of the department's federal and state records filing requirements necessitates an initial training for all employees, with an annual refresher in subsequent years. This would cost \$25,244 for FY 2016 and \$6,311 per year for FY 2017 through FY 2019.
19. The department assumes none of these costs are federally reimbursable across the Master Cooperative Agreement.

Montana Department of Health and Human Services

20. Business and Financial Services Division – To meet the revisions and clarification of records management duties as required by this bill would require the need of 1.00 FTE, a business management analyst, at a cost of \$82,688 in personal services each year. This would also require the one time only office and computer set up of \$2,875 in the first year and \$965 annually for phone and network connectivity. The division is funded through a split of 38.80% general funds, 3.30% state special revenue funds, and 57.90% federal funds.
21. Technology Services Division – To meet the increased security and management of electronic records, including archive, retention, retrieval and destruction of such records, would require 2.00 FTE, computer systems analysts, at a cost of \$77,605 each. This would also require the one time only office and computer set up of \$2,875 in the first year and \$965 annually for phone and network connectivity per FTE. The division is funded through a split of 38.62% general funds, 8.83% state special revenue funds, and 52.55% federal funds.

All Other State Agencies

22. All other state agencies can absorb duties without additional costs.

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<u>Fiscal Impact: Governor's Office</u>				
FTE	0.50	0.50	0.50	0.50
<u>Expenditures:</u>				
Personal Services	\$36,197	\$36,921	\$37,659	\$38,412
Operating Expenses	\$3,441	\$566	\$566	\$566
TOTAL Expenditures	\$39,638	\$37,487	\$38,225	\$38,978
<u>Funding of Expenditures:</u>				
General Fund (01)	\$39,638	\$37,487	\$38,225	\$38,978
TOTAL Funding of Exp.	\$39,638	\$37,487	\$38,225	\$38,978
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0
<u>Fiscal Impact: Department of Justice</u>				
FTE	1.15	1.15	1.15	1.15
<u>Expenditures:</u>				
Personal Services	\$83,529	\$83,251	\$83,251	\$83,251
Operating Expenses	\$15,893	\$12,445	\$12,445	\$12,445
TOTAL Expenditures	\$99,422	\$95,696	\$95,696	\$95,696
<u>Funding of Expenditures:</u>				
General Fund (01)	\$99,422	\$95,696	\$95,696	\$95,696
TOTAL Funding of Exp.	\$99,422	\$95,696	\$95,696	\$95,696
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0

	<u>FY 2016</u> <u>Difference</u>	<u>FY 2017</u> <u>Difference</u>	<u>FY 2018</u> <u>Difference</u>	<u>FY 2019</u> <u>Difference</u>
<u>Fiscal Impact: Department of Administration</u>				
FTE	1.00	1.00	1.00	1.00
<u>Expenditures:</u>				
Personal Services	\$84,592	\$86,630	\$88,668	\$90,706
Operating Expenses	\$9,000	\$6,000	\$6,000	\$6,000
TOTAL Expenditures	\$93,592	\$92,630	\$94,668	\$96,706
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$93,592	\$92,630	\$94,668	\$96,706
TOTAL Funding of Exp.	\$93,592	\$92,630	\$94,668	\$96,706
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$94,668	\$96,706
TOTAL Revenues	\$0	\$0	\$94,668	\$96,706
<u>Fiscal Impact: Department of Military Affairs</u>				
FTE	0.75	0.75	0.75	0.75
<u>Expenditures:</u>				
Personal Services	\$67,353	\$48,892	\$49,371	\$49,856
Operating Expenses	\$10,625	\$7,843	\$7,936	\$8,029
TOTAL Expenditures	\$77,978	\$56,735	\$57,307	\$57,885
<u>Funding of Expenditures:</u>				
General Fund (01)	\$77,978	\$56,735	\$57,307	\$57,885
TOTAL Funding of Exp.	\$77,978	\$56,735	\$57,307	\$57,885
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<u>Fiscal Impact: Department of Labor and Industry</u>				
FTE	0.50	0.50	0.50	0.50
<u>Expenditures:</u>				
Personal Services	\$44,716	\$44,716	\$45,387	\$46,068
Equipment	\$2,900	\$0	\$0	\$0
TOTAL Expenditures	\$47,616	\$44,716	\$45,387	\$46,068
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$47,616	\$44,716	\$45,387	\$46,068
TOTAL Funding of Exp.	\$47,616	\$44,716	\$45,387	\$46,068
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$45,387	\$46,068
TOTAL Revenues	\$0	\$0	\$45,387	\$46,068
<u>Fiscal Impact: Department of Public Health and Human Services</u>				
FTE	3.00	3.00	3.00	3.00
<u>Expenditures:</u>				
Personal Services	\$237,898	\$237,898	\$241,467	\$245,088
Operating Expenses	\$11,520	\$2,895	\$2,938	\$2,983
TOTAL Expenditures	\$249,418	\$240,793	\$244,405	\$248,071
<u>Funding of Expenditures:</u>				
General Fund (01)	\$96,481	\$93,145	\$94,542	\$95,960
State Special Revenue (02)	\$17,239	\$16,636	\$16,886	\$17,139
Federal Special Revenue (03)	\$135,698	\$131,012	\$132,977	\$134,972
TOTAL Funding of Exp.	\$249,418	\$240,793	\$244,405	\$248,071
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$313,519)	(\$283,063)	(\$285,770)	(\$288,519)
State Special Revenue (02)	(\$17,239)	(\$16,636)	(\$16,886)	(\$17,139)
Federal Special Revenue (03)	(\$135,698)	(\$131,012)	(\$132,977)	(\$134,972)
Other	(\$141,208)	(\$137,346)	\$0	\$0

Technical Notes:**Judicial Branch**

1. In section 2 – Definitions (1) “Constitutional officer” does not list Supreme Court justices.

Montana Department of Transportation

2. In the New section 14, the Department of Administration “shall approve all acquisitions of executive branch agency records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure compatibility with the standards developed under subsection (1).” Depending on how this rule is adopted and implemented, there could be potential costs for the department in acquiring suitable records storage equipment or systems. Also, according to section 12, anything on the state’s highway locations can be used for public information, which means how the department stores and captures data would be subject to section 14.

Montana Department of Commerce

3. HB 123 replaces “citizen” in current law (2-6-102, MCA) with “person” in New Section 3(1). This proposed change significantly broadens who would have standing to seek public information from state and local governments, and may include non-natural persons such as corporations and partnerships

Department of Military Affairs

4. Depending upon federal requirements, the department could be required to keep two sets of records –one set to satisfy federal records requirements and one set to satisfy the new state records requirements.

Effect on County or Other Local Revenues or Expenditures:**Judicial Branch**

1. This legislation may increase the number of hearings in Courts of Limited Jurisdiction which are funded by county or local governments.

Montana Association of Counties

2. The Montana Association of Counties anticipates additional costs, but they are unable to quantify amounts.

Sponsor's Initials

Date

Budget Director's Initials

Date



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

SPONSOR'S REBUTTAL TO FISCAL NOTE

House Bill Number: _____ **123** _____ **Date Prepared:** 1-19-115

Short Title: **Generally Revise Public Records Laws**

Sponsor: **Don Jones**

Generally, why do you disagree with the fiscal note?

By Statute every agency should already have a designated "Agency Records Custodian".

Specifically, what in the fiscal not do you feel is flawed?

(Describe specific assumptions, calculations, technical issues, etc.)

Section 2-6-213 already requires every agency to have a designated "Agency Records Custodian" to manage public records. This bill is simply an update of the law and emphasizing that this is an important function that every agency needs to adhere to.

What is your estimate of the fiscal impact?

There should be no fiscal impact.

A handwritten signature in black ink, appearing to read "Don Jones", written over a horizontal line.

HB 123

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 64th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: Chair Jeff Essmann, on January 23, 2015 at 9:00 A.M., in Room 455
Capitol

ROLL CALL

Members Present:

Rep. Jeff Essmann, Chair (R)
Rep. Bill Harris, Vice Chair (R)
Rep. Casey Schreiner, Vice Chair (D)
Rep. Bryce Bennett (D)
Rep. Bob Brown (R)
Rep. Moffie Funk (D)
Rep. Frank Garner (R)
Rep. Edward Greef (R)
Rep. Denise Hayman (D)
Rep. Jessica Karjala (D)
Rep. Debra Lamm (R)
Rep. Forrest Mandeville (R)
Rep. Wendy McKamey (R)
Rep. Dale Mortensen (R)
Rep. Jean Price (D)
Rep. Ray L. Shaw (R)
Rep. Kathy Swanson (D)
Rep. Susan Webber (D)
Rep. Art Wittich (R)

Members Excused:

Rep. Austin Knudsen (R)

Members Absent: None

Staff Present: Jennifer Petersen, Committee Secretary
Sheri Scurr, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 123, 1/13/2015; HB 69, 1/13/2015

00:00:01 Chair Essmann

HEARING ON HB 69

Opening Statement by Sponsor:

00:01:46 Rep. Geraldine Custer (R), HD 39, opened the hearing on HB 69, Update training requirements for election administrators.

Proponents' Testimony:

00:02:48 Chair Essmann

00:03:01 Linda McCulloch, Secretary of State (SOS)

EXHIBIT(sth15a01)

00:07:40 Bret Rutherford, Yellowstone County and Montana Association of Clerks and Recorders and Election Administrators (MACREA)

00:08:30 Chair Essmann

00:08:35 Audrey Dufrechou, Lewis & Clark County

00:11:12 Chair Essmann

00:11:20 Rebecca Connors, Missoula County

00:12:27 Chair Essmann

00:12:42 Chris Gallus, self

00:14:06 Chair Essmann

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:14:27 Rep. McKamey

00:15:07 Bret Rutherford, Yellowstone County and MACREA

00:15:26 Rep. McKamey

00:15:32 Bret Rutherford, Yellowstone County and MACREA

00:15:39 Rep. Wittich

00:16:08 Linda McCulloch, SOS

00:16:15 Rep. Wittich

00:17:19 Linda McCulloch, SOS

00:17:56 Chair Essmann

00:18:02 Rep. Wittich

00:19:13 Lisa Kimmet, Office of the Secretary of State (SOS)

00:20:45 Rep. Wittich

00:20:58 Lisa Kimmet, SOS

00:21:06 Chair Essmann

00:21:09 Rep. Lamm

00:21:39 Linda McCulloch, SOS

00:21:49 Rep. Lamm

00:22:01 Linda McCulloch, SOS

00:22:09 Rep. B. Bennett

00:22:25 Linda McCulloch, SOS

00:23:01 Chair Essmann

00:23:07 Rep. McKamey

00:23:26 Linda McCulloch, SOS
00:23:58 Rep. Lamm
00:24:17 Linda McCulloch, SOS
00:24:39 Chair Essmann
00:24:43 Rep. Wittich
00:25:03 Rep. Custer
00:25:35 Rep. Wittich
00:26:11 Rep. Custer
00:26:26 Brett Rutherford, Yellowstone County and MACREA
00:26:39 Chair Essmann
00:27:12 Rep. Custer

Closing by Sponsor:

00:27:17 Rep. Custer
00:28:18 Chair Essmann
00:29:03 Rep. Wittich
00:29:17 Chair Essmann

HEARING ON HB 123**Opening Statement by Sponsor:**

00:29:36 Rep. Donald Jones (R), HD 46, opened the hearing on HB 123, Generally revise
public records laws
00:32:12 Chair Essmann
00:32:17 Rep. D. Jones
EXHIBIT(sth15a02)
00:32:37 Chair Essmann

Proponents' Testimony:

00:32:58 John MacDonald, Montana Newspaper Association (MNA)
00:38:37 Chair Essmann
00:38:44 David Nielsen, Montana League of Cities and Towns (MLCT)
EXHIBIT(sth15a03)
00:43:01 Chair Essmann
00:43:08 Kevin Nelson, self
00:48:02 Chair Essmann
00:48:11 Jorge Quintana, Office of the Secretary of State (SOS)
00:48:40 Chair Essmann
00:48:50 Shantil Siaperas, Montana Association of Counties (MACo)
00:50:08 Chair Essmann
00:50:18 John Moore, self
00:55:35 Chair Essmann
00:55:51 *Rep. Garner leaves*

Opponents' Testimony:

00:55:57 John Alke, NorthWestern Energy
EXHIBIT(sth15a04)
01:04:06 Chair Essmann
01:04:17 Dave Galt, Montana Petroleum Association (MPA)

01:06:18 Chair Essmann
01:06:23 Aimee Grmoljez, Montana-Dakota Utilities Company (MDU)
01:07:28 Chair Essmann
01:07:36 Rep. B. Bennett
01:07:54 Chair Essmann

Informational Testimony:

01:08:12 Mary Baker, Office of the Commissioner of Political Practices (CPP)
01:08:36 Jodie Foley, Montana Historical Society (MHS)
01:10:17 Chair Essmann
01:10:28 Jennie Stapp, Montana State Library (MSL)

Questions from Committee Members and Responses:

01:10:55 Rep. Hayman
01:11:27 John Alke, NorthWestern Energy
01:12:58 Rep. Hayman
01:14:11 Rep. D. Jones
01:15:11 Chair Essmann
01:15:19 Rep. Garner
01:15:45 Rep. D. Jones
01:16:33 Rep. Garner
01:16:48 Rep. Wittich
01:18:11 Rep. D. Jones
01:19:37 Rep. Wittich
01:20:12 Rep. D. Jones
01:20:30 Rep. Wittich
01:21:35 Rep. D. Jones
01:22:45 Rep. Wittich
01:24:48 Rep. D. Jones
01:24:58 Rep. Wittich
01:25:57 David Nielsen, MLCT
01:26:16 Rep. Karjala
01:27:08 John Alke
01:27:14 Rep. Karjala
01:27:22 Chair Essmann
01:29:08 Kevin Nelson, self

Closing by Sponsor:

01:29:26 Rep. D. Jones

01:30:43 Chair Essmann
01:32:08 Rep. Garner
01:32:12 Chair Essmann
01:32:15 Rep. Hayman
01:32:21 Chair Essmann
01:32:49 Rep. Shaw
01:33:03 Chair Essmann, recessed

01:47:36 Reconvened

EXECUTIVE ACTION ON HB 107

01:48:08 Sheri Scurr, Legislative Services Division (LSD)

01:48:47 **Motion:** Rep. Harris moved that **HB 107 DO PASS**.

Discussion:

01:49:41 Chair Essmann

01:50:01 Sheri Scurr, LSD

EXHIBIT(sth15a05)

01:52:23 **Motion/Vote:** Rep. Harris moved that **HB 107 BE AMENDED**. Motion carried unanimously by voice vote. Rep. Knudsen voted by proxy.

01:53:21 Sheri Scurr, LSD

EXHIBIT(sth15a06)

01:56:13 Chair Essmann

01:56:21 **Motion:** Rep. Harris moved that **HB 107 BE AMENDED**.

Discussion:

01:56:36 Rep. Garner

01:56:46 Sheri Scurr, LSD

01:58:28 Rep. Garner

01:58:28 Chair Essmann

01:58:46 Rep. Garner

01:58:54 Melanie Symons, Public Employees Retirement Association (PERA)

01:59:07 Chair Essmann

01:59:21 Sheri Scurr, LSD

01:59:31 Rep. Garner

01:59:39 Chair Essmann

01:59:49 **Vote:** Motion carried unanimously by voice vote. Rep. Knudsen voted by proxy.

02:00:14 Chair Essmann

02:00:19 Sheri Scurr, LSD

EXHIBIT(sth15a07)

02:01:49 **Motion/Vote:** Rep. Harris moved that **HB 107 BE AMENDED**. Motion carried unanimously by voice vote. Rep. Knudsen voted by proxy.

02:02:25 Chair Essmann

02:02:30 **Motion/Vote:** Rep. Harris moved that **HB 107 DO PASS AS AMENDED**. Motion carried unanimously by voice vote. Rep. Knudsen voted by proxy.

EXECUTIVE ACTION ON HB 85

02:03:25 Chair Essmann
02:04:00 Sheri Scurr, LSD
02:04:36 Chair Essmann

02:04:43 **Motion:** Rep. Schreiner moved that **HB 85 DO PASS.**

Discussion:

02:05:00 Chair Essmann
02:05:05 Rep. Wittich
02:05:36 Chair Essmann

02:06:00 **Motion:** Rep. Wittich moved that **HB 85 BE AMENDED.**

02:06:10 Chair Essmann
02:06:14 Rep. Schreiner
02:06:38 Chair Essmann
02:07:20 Without objection, Rep. Wittich withdrew the BE AMENDED motion.
02:07:27 Chair Essmann
02:07:52 Without objection, Rep. Schreiner withdrew the HB 85 DO PASS motion.

EXECUTIVE ACTION ON HB 101

02:08:23 Sheri Scurr, LSD
02:09:23 Chair Essmann

02:09:27 **Motion:** Rep. Harris moved that **HB 101 DO PASS.**

Discussion:

02:09:36 Chair Essmann
02:09:56 Rep. Garner
02:10:12 Chair Essmann
02:10:18 Rep. Garner
02:10:24 Chair Essmann
02:10:35 Sheri Scurr, LSD
02:10:53 Rep. Garner
02:11:02 Chair Essmann
02:11:06 Rep. Garner
02:11:39 Chair Essmann

02:11:44 **Motion:** Rep. Garner moved that **HB 101 BE AMENDED.**

[EXHIBIT\(sth15a08\)](#)

Discussion:

02:13:16 Chair Essmann
02:13:27 Rep. Wittich
02:13:31 Chair Essmann
02:14:11 Rep. Garner
02:14:42 Rep. Wittich

02:16:42 Chair Essmann
 02:16:45 Rep. Garner
 02:16:56 Chair Essmann
 02:17:03 Rep. Garner
 02:17:09 Melanie Symons, PERA
 02:18:28 Chair Essmann
 02:18:35 Rep. Wittich
 02:19:56 Melanie Symons, PERA
 02:20:49 Rep. Wittich
 02:21:03 Chair Essmann
 02:21:10 Rep. Lamm
 02:21:45 Chair Essmann

02:22:01 **Vote:** Motion carried 13-7 by roll call vote with Rep. Brown, Rep. Harris, Rep. Knudsen, Rep. Lamm, Rep. Mandeville, Rep. Mortensen and Rep. Wittich voting no. Rep. Knudsen voted by proxy.

02:24:45 Chair Essmann

02:23:30 **Motion/Vote:** Rep. Garner moved that **HB 101 BE AMENDED**. Motion carried unanimously by voice vote. Rep. Knudsen voted by proxy.

[EXHIBIT](#)(sth15a09)

02:25:16 Chair Essmann

02:25:29 **Motion:** Rep. Harris moved that **HB 101 DO PASS AS AMENDED**.

Discussion:

02:25:50 Rep. B. Bennett
 02:26:47 Rep. Wittich
 02:27:58 Chair Essmann
 02:28:50 Rep. Garner
 02:29:00 Chair Essmann
 02:29:10 Rep. Garner
 02:29:19 Rep. B. Bennett
 02:29:36 Chair Essmann

02:30:27 **Vote:** Motion carried 14-6 by roll call vote with Rep. Brown, Rep. Harris, Rep. Knudsen, Rep. Lamm, Rep. Mortensen and Rep. Wittich voting no. Rep. Knudsen voted by proxy.

EXECUTIVE ACTION ON HB 155

02:32:33 **Motion:** Rep. Harris moved that **HB 155 DO PASS**.

Discussion:

02:32:37 Chair Essmann
 02:32:47 Rep. Funk

[EXHIBIT](#)(sth15a10)

02:33:45 Chair Essmann

02:34:15 Rep. Funk

[EXHIBIT](#)(sth15a11)

02:35:12 **Motion:** Rep. Funk moved that **HB 155 BE AMENDED.**

02:35:26 Chair Essmann

02:35:31 Sheri Scurr, LSD

02:35:56 Chair Essmann

02:36:08 **Vote:** Motion carried unanimously by voice vote. Rep. Knudsen voted by proxy.

02:36:30 **Motion/Vote:** Rep. Harris moved that **HB 155 DO PASS AS AMENDED.** Motion carried 17-3 by roll call vote with Rep. Brown, Rep. Mandeville and Rep. Wittich voting no. Rep. Knudsen voted by proxy.

EXECUTIVE ACTION ON HB 54

02:38:39 Sheri Scurr, LSD

02:39:01 Chair Essmann

02:39:09 **Motion:** Rep. Schreiner moved that **HB 54 DO PASS.**

Discussion:

02:39:21 Rep. Lamm

02:39:48 Chair Essmann

02:40:01 **Vote:** Motion carried unanimously by voice vote. Rep. Knudsen voted by proxy.

EXECUTIVE ACTION ON HB 126

02:40:27 Chair Essmann

02:40:47 Sheri Scurr, LSD

02:41:14 Chair Essmann

02:41:21 **Motion:** Rep. Schreiner moved that **HB 126 DO PASS.**

Discussion:

02:41:33 Rep. Mandeville

02:42:15 Rep. Wittich

02:43:00 Chair Essmann

02:43:04 Rep. Harris

02:43:47 Chair Essmann

02:43:52 Rep. Price

02:44:05 Chair Essmann

02:44:08 Rep. Hayman

02:44:21 Chair Essmann

02:44:33 Sheri Scurr, LSD

02:45:02 Chair Essmann

02:45:13 **Vote:** Motion carried 14-6 by roll call vote with Rep. Brown, Rep. Essmann, Rep. Lamm, Rep. Mandeville, Rep. Mortensen and Rep. Wittich voting no. Rep. Knudsen voted by proxy.

EXECUTIVE ACTION ON HB 76

02:46:30 Chair Essmann

02:46:52 **Motion:** Rep. Schreiner moved that **HB 76 DO PASS.**

Discussion:

02:47:06 Sheri Scurr, LSD

02:48:17 Chair Essmann

02:48:24 Rep. Harris

02:49:09 Rep. Funk

02:49:44 Rep. Harris

02:50:18 Rep. Garner

02:51:20 Rep. B. Bennett

02:52:04 Rep. Garner

02:52:59 Rep. B. Bennett

02:53:47 Rep. Price

02:54:37 **Motion/Vote:** Rep. Mandeville moved that **HB 76 BE TABLED.** Motion carried 12-8 by roll call vote with Rep. Bennett, Rep. Funk, Rep. Hayman, Rep. Karjala, Rep. Price, Rep. Schreiner, Rep. Swanson and Rep. Webber voting no. Rep. Knudsen voted by proxy.

02:56:07 Sheri Scurr, LSD

02:56:17 Chair Essmann

02:57:25 Rep. Funk

02:57:35 Chair Essmann

ADJOURNMENT

Adjournment: 02:57:54

Jennifer Petersen, Secretary

jp

Additional Documents:

EXHIBIT([sth15aad.pdf](#))

EXHIBIT 2
DATE 1/23/15

BILL DRAFT LANGUAGE HB 123 - INTRODUCED VERSION	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
Section 1. Purpose. The purpose of this chapter is to ensure efficient and effective management of public records and public information, in accordance with Article II, sections 8 through 10, of the Montana constitution, for the state of Montana and its political subdivisions.	2-6-201. Purpose. The purpose of this part is to create an effective records management program for executive branch agencies of the state of Montana and political subdivisions by establishing guidelines and procedures for the efficient and economical control of the creation, utilization, maintenance, and preservation of state and local records.	Moves to new Part 1 so that purpose applies universally — all branches, state and local gov't. Emphasizes Montana Constitution.
Section 2. Definitions. As used in this chapter, the following definitions apply: (1) "Constitutional officer" means the governor, lieutenant governor, attorney general, secretary of state, superintendent of public instruction, or auditor, who are the constitutionally designated and elected officials of the executive branch of government. (2) "Essential record" means a public record immediately necessary to: (a) respond to an emergency or disaster; (b) begin recovery or reestablishment of operations during and after an emergency or disaster; (c) protect the health, safety, and property of Montana citizens; or (d) protect the assets, obligations, rights, history, and resources of a public agency and its employees, customers, or Montana citizens. (3) "Executive branch agency" means a department, board, commission, office, bureau, or other public authority of the executive branch of state government. (4) "Historic record" means a public record found by the state archivist to have permanent administrative or historic value to the state. (5) "Local government" means any city, town, county, consolidated city-county, school district, or subdivision of one of these entities.	2-6-101. Definitions. (1) Writings are of two kinds: (a) public; and (b) private. (2) Public writings are: (a) the written acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial, and executive, whether of this state, of the United States, of a sister state, or of a foreign country, except records that are constitutionally protected from disclosure; (b) public records, kept in this state, of private writings, including electronic mail, except as provided in <u>22-1-1103</u> and <u>22-3-807</u> and except for records that are constitutionally protected from disclosure. (3) Public writings are divided into four classes: (a) laws; (b) judicial records; (c) other official documents; (d) public records, kept in this state, of private writings, including electronic mail. (4) All other writings are private. 2-6-202. Definitions. As used in this part, the following definitions apply: (1) (a) "Public records" includes: (i) any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other document, including copies of the record	Definitions consolidated and universally applicable at the beginning of public records chapter. Archaic, confusing, and unnecessary definitions eliminated. Current and needed definitions revised for clarity. New definitions added for terms used throughout chapter. Acknowledges and distinguishes between public information and public record. Instead of listing various formats, recommends "regardless of physical form or characteristics".

BILL DRAFT LANGUAGE HB 123 - INTRODUCED VERSION	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
(6) "Local government records committee" means the local government records committee provided for in [section 22]. (7) "Permanent record" means a public record designated for long-term or permanent retention. (8) "Public agency" means any political subdivision, including a municipality, county, school district, and any agency or department of the state of Montana. (9) "Public information" means information, regardless of physical form or characteristics, relating to the conduct of the public's business and prepared, owned, used, or retained by any public agency. (10) "Public officer" means any person who has been elected or appointed as an officer of state or local government. (11) "Public record" means public information that is: (a) fixed in any medium and is retrievable in usable form for future reference; and (b) designated for retention by the state records committee, judicial branch, legislative branch, or local government records committee. (12) "Records manager" means an individual designated by a public agency to be responsible for coordinating the efficient and effective management of the agency's public records and information. (13) "State records committee" means the state records committee provided for in [section 15].	required by law to be kept as part of the official record, regardless of physical form or characteristics, that: (A) has been made or received by a state agency to document the transaction of official business; (B) is a public writing of a state agency pursuant to <u>2-6-101(2)(a)</u>; and (C) is designated by the state records committee for retention pursuant to this part; and (ii) all other records or documents required by law to be filed with or kept by any agency of the state of Montana. (b) The term includes electronic mail sent or received in connection with the transaction of official business. (c) The term does not include any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other type of document that is for reference purposes only, a preliminary draft, a telephone messaging slip, a routing slip, part of a stock of publications or of preprinted forms, or a superseded publication. (2) "State records committee" or "committee" means the state records committee provided for in <u>2-6-208</u>. 2-6-301. Definitions. As used in this part, the following definitions apply: (1) "Constitutionally designated and elected officials of the executive branch of government" means the governor, lieutenant governor, attorney general, secretary of state, superintendent of public instruction, and auditor. (2) (a) "Official records" means any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other document, including all copies of the record, regardless of physical form or characteristics, that has been made or received by a constitutionally designated and elected official of the executive branch of government in transacting official duties and preserved for informational value or as evidence of a	

BILL DRAFT LANGUAGE
HB 123 - INTRODUCED VERSION

EXISTING STATUTORY LANGUAGE

EXPLANATION OF
CHANGES

transaction.

(b) The term includes electronic mail sent or received in connection with the transaction of official duties.

2-6-401. Definitions. For the purposes of this part, the following definitions apply:

(1) "Local government" means:

(a) any city, town, county, consolidated city-county, or school district; and

(b) any subdivision of an entity named in subsection (1)(a).

(2) (a) "Public records" includes:

(i) any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other document, including copies of the record required by law to be kept as part of the official record, regardless of physical form or characteristics, that:

(A) has been made or received by any local government to document the transaction of official business;

(B) is a public writing of the local government pursuant to 2-6-101(2)(a); and

(C) is designated for retention by the local government records committee established in 2-6-402; and

(ii) all other records or documents required by law to be filed with or kept by any local government in the state of Montana, except military discharge certificates filed under 7-4-2614.

(b) The term includes electronic mail sent or received in connection with the transaction of official duties.

(c) The term does not include any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other type of document that is for reference purposes only, a preliminary draft, a telephone messaging slip, a routing slip, part of a stock of publications or of preprinted forms, or a superseded publication.

(3) "Records custodian" means any individual responsible for the proper filing, storage, or safekeeping of any public records.

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Section 3. Access to public information -- privacy and security exceptions. (1) Every person has a right to examine and obtain a copy of any public information of this state, except for information that is constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure or as otherwise expressly prohibited by statute. (2) A public officer may withhold from public scrutiny information relating to individual privacy or individual or public safety or security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information may jeopardize the safety of facility personnel, the public, students in a public school, or inmates of a facility. Security features that may be protected under this section include but are not limited to architectural floor plans, blueprints, designs, drawings, building materials, alarms system plans, surveillance techniques, and facility staffing plans, including staff numbers and locations. A public officer may not withhold from public scrutiny any more information than is required to protect an individual privacy interest or safety or security interest. (3) The provisions of this section do not apply to collections of the Montana historical society when restrictions on access have been imposed by collection creators or donors and the collections do not contain public information.	2-6-102. Citizens entitled to inspect and copy public writings. (1) Every citizen has a right to inspect and take a copy of any public writings of this state, except as provided in <u>22-1-1103</u>, <u>22-3-807</u>, or subsection (3) of this section and as otherwise expressly provided by statute. (2) Every public officer having the custody of a public writing that a citizen has a right to inspect is bound to give the citizen on demand a certified copy of it, on payment of the legal fees for the copy, and the copy is admissible as evidence in like cases and with like effect as the original writing. The certified copy provision of this subsection does not apply to the public record of electronic mail provided in an electronic format. (3) Records and materials that are constitutionally protected from disclosure are not subject to the provisions of this section. Information that is constitutionally protected from disclosure is information in which there is an individual privacy interest that clearly exceeds the merits of public disclosure, including legitimate trade secrets, as defined in <u>30-14-402</u>, and matters related to individual or public safety. (4) A public officer may withhold from public scrutiny information relating to individual privacy or individual or public safety or security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information may jeopardize the safety of facility personnel, the public, students in a public school, or inmates of a facility. Security features that may be protected under this section include but are not limited to architectural floor plans, blueprints, designs, drawings, building materials, alarms system plans, surveillance techniques, and facility staffing plans, including staff numbers and locations. A public officer may not withhold from public scrutiny any more information than is required to protect an individual privacy interest or safety or security interest.	Current law addresses access and privacy in multiple sections for different types of information and records. Consolidates and simplifies access and privacy/safety/security protections in Part 1. Addresses right to copy and simplified fees allowable for public information requests in New Section 4.

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	2-6-104. Records of officers open to public inspection. Except as provided in <u>27-18-111</u> and <u>42-6-101</u>, the public records and other matters, except records that are constitutionally protected from disclosure, in the office of any officer are at all times during office hours open to the inspection of any person. 2-6-110. Electronic information and nonprint records -- public access -- fees. (1) (a) Except as provided by law, each person is entitled to a copy of public information compiled, created, or otherwise in the custody of public agencies that is in electronic format or other nonprint media, including but not limited to videotapes, photographs, microfilm, film, or computer disk, subject to the same restrictions applicable to the information in printed form. All restrictions relating to confidentiality, privacy, business secrets, and copyright are applicable to the electronic or nonprint information. (b) The provisions of subsection (1)(a) do not apply to collections of the Montana historical society established pursuant to <u>22-3-101</u>. ...[.]	
Section 4. Public information requests -- fees. (1) A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons. (2) Upon receiving a request for public information, a public agency shall respond in a timely manner to the requesting person with an estimate of the time it will take to fulfill the request and any fees that may be charged pursuant to subsection (3). (3) A public agency may charge a fee for fulfilling a public information request. The fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible. The fee must be	2-6-110. Electronic information and nonprint records -- public access -- fees. ... (2) Except as provided by law and subject to subsection (3), an agency may charge a fee, not to exceed: (a) the agency's actual cost of purchasing the electronic media used for transferring data, if the person requesting the information does not provide the media; (b) expenses incurred by the agency as a result of mainframe and midtier processing charges; (c) expenses incurred by the agency for providing online computer access to the person requesting access; (d) other out-of-pocket expenses directly associated with the request for information, including the retrieval or production	Current law addresses allowable fees for the "copying" of public information in multiple and confusing sections. Moves special fees for certain information to separate New Section 5. Revised the formula for agencies to use in determining the fees they are allowed to charge.

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documented. The fee may include the time required to gather public information.	of electronic mail; and (e) the hourly market rate for an administrative assistant in pay band 3 of the broadband pay plan, as provided for in <u>2-18-301</u> , in the current fiscal year for each hour, or fraction of an hour, after one-half hour of copying service has been provided. ...[.]	
Section 5. Special fees allowable for certain information. (1) In addition to the fee allowed under [section 4], the department of revenue may charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and assessment system database from which the information is requested. The fee must be charged to persons, federal agencies, state agencies, and other entities requesting the database or any part of the database from any department property valuation and assessment system. The fee may not be charged to the governor's office of budget and program planning, the state tax appeal board, or any legislative body or its members or staff. (2) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property. (3) All fees received by the department of revenue under [section 4] and this section must be deposited in the property value improvement fund as provided in 15-1-521. (4) In accordance with the fees allowed under [section 4], the Montana historical society may charge fees as approved by its board of trustees for copies of materials contained in its collections, based on documentable curatorial duties as set forth in 22-3-101.	2-6-110. Electronic information and nonprint records -- public access -- fees. ... (3) (a) In addition to the allowable fees in subsection (2), the department of revenue may charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and assessment system database from which the information is requested. The fee must be charged to persons, federal agencies, state agencies, and other entities requesting the database or any part of the database from any department property valuation and assessment system. The fee may not be charged to the governor's office of budget and program planning, the state tax appeal board, or any legislative agency or committee. (b) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property. (c) All fees received by the department of revenue under subsection (2) and this subsection (3) must be deposited in a state special revenue fund as provided in 15-1-521. (d) Fees charged by the secretary of state pursuant to this section must be set and deposited in accordance with 2-15-405.	Contains language from current law allowing additional fees for the Dept. of Revenue and the exception granted MHS to charge additional fees for materials curated as part of its collections.

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	(4) For the purposes of this section, the term "agency" has the meaning provided in 2-3-102 but includes legislative, judicial, and state military agencies. (5) An agency may not charge more than the amount provided under subsection (2) for providing a copy of an existing nonprint record. (6) Subject to 15-1-103, an agency shall ensure that a copy of information provided to a requester is of a quality that reflects the condition of the original if requested by the requester. (7) This section does not authorize the release of electronic security codes giving access to private information.	
Section 6. Management of public records -- disposal and destruction. (1)(a) Each public officer is responsible for properly managing the public records within the public officer's possession or control through an established records management plan that satisfies the requirements of this chapter. (b) Executive branch agencies shall manage public records according to the provisions of [sections 13 through 21] and the rules and guidelines established by the secretary of state, the state records committee, the local government records committee, and the Montana historical society. (c) Local governments shall manage public records according to the provisions of [sections 22 through 24] and the rules and guidelines established by the secretary of state, the local government records committee, and the Montana historical society. (d) Pursuant to 5-2-503 and 5-11-105, the legislative council shall administer the records management plan for the legislative branch. The legislative branch may seek assistance from the secretary of state, the state records committee, the local government records committee, and the Montana	THIS LANGUAGE DOES NOT CURRENTLY EXIST IN STATUTE	Emphasizes management of records through disposition to address finding that many records are retained well past their designated retention.

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historical society regarding development, implementation, and administration of the legislative records management plan. (e) The judicial branch shall establish a records management plan. The judicial branch may seek assistance from the secretary of state, the state records committee, the local government records committee, and the Montana historical society regarding development, implementation, and administration of the judicial records management plan. (2) When a public record has reached the end of its retention period, the public officer shall ensure the record is disposed of, destroyed, or transferred according to the provisions of this chapter.		
Section 7. Preservation of public records -- possession of public records. (1) All public records are and remain the property of the state. The public records must be delivered by outgoing public officers and employees to their successors and must be preserved, stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of this chapter. (2) If any outgoing public officer or employee refuses or fails to deliver to the current public officer or employee any public records that pertain to that public office, the current public officer or employee may file a complaint in the district court of the county where the public officer or employee resides, pursuant to the Montana Rules of Civil Procedure, to compel the outgoing officer or employee to deliver any public records still in the outgoing officer or employee's possession.	2-6-205. Preservation of public records. All public records are and shall remain the property of the state. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of this part.	Technical changes. Maintains emphasis on preservation. Combined several procedural sections into a single section to streamline the process.
	2-6-105. Removal of public records. Any record, a transcript of which is admissible in evidence, must not be removed from the office where it is kept, except upon the order of a court or judge in cases where the inspection of the record is shown to be essential to the just determination of the cause or proceeding pending or where the court is held in the same building with such office.	
	2-6-107. Proceedings to compel delivery of records. If any person, whether a former incumbent or another person, refuses or neglects to deliver to the actual incumbent any such books or papers, such actual incumbent may apply, by complaint, to any district court or judge of the county where the person so refusing or neglecting resides and the court or	

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	judge must proceed in a summary way, after notice to the adverse party, to hear the allegations and proofs of the parties and to order any such books and papers to be delivered to the petitioners. 2-6-108. Attachment and warrant to enforce. The execution of the order and delivery of the books and papers may be enforced by attachment as for a witness and also, at the request of the plaintiff, by a warrant directed to the sheriff or a constable of the county, commanding the sheriff or constable to search for the books and papers and to take and deliver them to the plaintiff.	
Section 8. Written notice of denial -- civil action -- costs to plaintiff in certain actions to enforce constitutional rights. (1) A public agency that denies an information request to release information or records shall provide a written explanation for the denial. (2) If a person who makes an information request receives a denial from a public agency and believes that the denial violates the provisions of this chapter, the person may file a complaint pursuant to the Montana Rules of Civil Procedure in district court. (3) A plaintiff who prevails in an action brought in district court to enforce the plaintiff's rights under Article II, section 9, of the Montana constitution may be awarded costs and reasonable attorney fees.	THIS LANGUAGE DOES NOT CURRENTLY EXIST IN STATUTE	Describes the process by which a person may seek a judicial remedy for a denial of an information request.
Section 9. Certified copies of records-- historic records and constitutional officer records. (1) A person may request a certified copy of a public record from a public agency subject to the provisions of [section 3]. The public agency may charge a fee for the certified copy of a public record in accordance with [section 4].	2-6-207. Certified copies of public records. (1) The Montana historical society shall reproduce and certify copies of public records in its possession upon application of any citizen of this state. (2) The certified copy of a public record has the same force in law as if made by the original custodian.	Specifies the types of records in MHS' possession and combines two existing sections.

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(2) A person may request a certified copy of a historic record or a constitutional officer record from the Montana historical society subject to the provisions of [section 3]. The Montana historical society may charge a fee for the certified copy of a historic record or constitutional officer record in accordance with [sections 4 and 5(4)]. (3) The certified copy created by the Montana historical society of a historic record or a constitutional officer record has the same force in law as if made by the original public agency that created the record.	2-6-307. Certified copies of official records. (1) The Montana historical society shall reproduce and certify copies of official records in its possession upon application of any citizen of this state. (2) The certified copy of an official record has the same force in law as if made by the original custodian.	
Section 10. Protection and storage of essential records. (1) To provide for the continuity and preservation of civil government, each public officer shall designate certain public records as essential records. The list must be continually maintained by the public officers to ensure its accuracy. Each public officer shall collaborate with the appropriate continuity of government programs to ensure essential records are identified and maintained. (2) Each public officer shall ensure essential records are efficiently and effectively secured. Each public officer shall look to the guidance provided by the state records committee or the local government records committee in choosing appropriate methods to protect, store, back up, and recover essential records.	2-6-206. Protection and storage of essential records. (1) In order to provide for the continuity and preservation of civil government, each elected and appointed officer of the executive branch shall designate certain public records as essential records needed for an emergency or for the reestablishment of normal operations after the emergency. A list of essential records must be forwarded to the secretary of state. The list must be reviewed from time to time by the elected or appointed officers to ensure its accuracy. Any changes or revisions must be forwarded to the secretary of state. (2) Each elected and appointed officer of state government shall ensure that the security of essential records is accomplished by the most economical means possible. Protection and storage of essential records may be by vaulting, planned or natural dispersal of copies, storage in the state archives or in an alternative location provided pursuant to 2-6-211(2), or any other method approved by the secretary of state. (3) Reproductions of essential records may be by photocopy, magnetic tape, microfilm, or other methods approved by the secretary of state.	Makes universally applicable the duty to designate essential records to ensure continuity of government. Removes requirement to forward list of essential records to SOS. Requires all public officers to work with appropriate continuity program and records committee to ensure proper management of essential records.

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Section 11. Prohibition on dissemination or use of distribution lists -- exceptions -- penalties. (1) Except as provided in subsections (3) through (9), to protect the privacy of those who deal with state and local government: (a) a public agency may not distribute or sell a distribution list without first securing the permission of those on the list; and (b) a list of persons prepared by the public agency may not be used as a distribution list except by the public agency or another public agency without first securing the permission of those on the list. (2) As used in this section, "distribution list" means any list of personal contact information collected by a public agency and used to facilitate unsolicited contact with individuals on the distribution list. (3) This section does not prevent an individual from compiling a distribution list by examination of records that are otherwise open to public inspection. (4) This section does not apply to the lists of: (a) registered electors and the new voter lists provided for in 13-2-115; (b) the names of employees governed by Title 39, chapter 31; (c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127; (d) persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37, chapters 1 through 4, 6 through 20, 22 through 29, 31, 34 through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through 69, 72, and 73; and Title 50, chapters 39, 72, 74, and 76; or (e) persons certified as claims examiners under 39-71-320. (5) This section does not prevent an agency from providing a list to persons providing prelicensing or	2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty. (1) Except as provided in subsections (3) through (9), in order to protect the privacy of those who deal with state and local government: (a) an agency may not distribute or sell for use as a mailing list any list of persons without first securing the permission of those on the list; and (b) a list of persons prepared by the agency may not be used as a mailing list except by the agency or another agency without first securing the permission of those on the list. (2) As used in this section, "agency" means any board, bureau, commission, department, division, authority, or officer of the state or a local government. (3) This section does not prevent an individual from compiling a mailing list by examination of records that are otherwise open to public inspection. (4) This section does not apply to the lists of: (a) registered electors and the new voter lists provided for in 13-2-115; (b) the names of employees governed by Title 39, chapter 31; (c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127; (d) persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37, chapters 1 through 4, 6 through 29, 31, 34 through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through 69, 72, and 73; and Title 50, chapters 39, 72, 74, and 76; or (e) persons certified as claims examiners under 39-71-320. (5) This section does not prevent an agency from providing a list to persons providing prelicensing or continuing educational courses subject to state law or subject to Title 33, chapter 17.	Closes identified "loophole" by broadening prohibition to include "distribution list" and provides a definition.

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continuing education courses subject to state law or subject to Title 33, chapter 17. (6) This section does not apply to the right of access by Montana law enforcement agencies. (7) This section does not apply to a corporate information list developed by the secretary of state containing the name, address, registered agent, officers, and directors of business, nonprofit, religious, professional, and close corporations authorized to do business in this state. (8) This section does not apply to the use by the public employees' retirement board of a mailing list of board-administered retirement system participants to send materials on behalf of a retiree organization formed for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the mailing list is not released to the organization. (9) This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment. (10) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.	(6) This section does not apply to the right of access by Montana law enforcement agencies. (7) This section does not apply to a corporate information list developed by the secretary of state containing the name, address, registered agent, officers, and directors of business, nonprofit, religious, professional, and close corporations authorized to do business in this state. (8) This section does not apply to the use by the public employees' retirement board of a mailing list of board-administered retirement system participants to send materials on behalf of a retiree organization formed for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the mailing list is not released to the organization. (9) This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment. (10) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.	
Section 12. Concealment of public hazards prohibited -- concealment of information related to settlement or resolution of civil suits prohibited. (1) This section may be cited as the "Gus Barber Antisecrecy Act". (2) As used in this section, "public hazard" means a device, instrument, or manufactured product, or a condition of a device, instrument, or manufactured product, that endangers public safety or health and has caused injury, as defined in 27-1-106.	2-6-112. Concealment of public hazards prohibited -- concealment of information related to settlement or resolution of civil suits prohibited. (1) This section may be cited as the "Gus Barber Antisecrecy Act". (2) As used in this section, "public hazard" means a device, instrument, or manufactured product, or a condition of a device, instrument, or manufactured product, that endangers public safety or health and has caused injury, as defined in 27-1-106.	Unchanged.

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(3) Except as otherwise provided in this section, a court may not enter a final order or judgment that has the purpose or effect of concealing a public hazard. (4) Any portion of a final order or judgment entered or a written final settlement agreement entered into that has the purpose or effect of concealing a public hazard is contrary to public policy, is void, and may not be enforced. This section does not prohibit the parties from keeping the monetary amount of a written final settlement agreement confidential. (5) A party to civil litigation may not request, as a condition to the production of discovery, that another party stipulate to an order that would violate this section. (6) This section does not apply to: (a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected pursuant to Title 30, chapter 14, part 4; (b) other information that is confidential under state or federal law; or (c) a health care provider, as defined in 27-6-103. (7) Any affected person, including but not limited to a representative of the news media, has standing to contest a final order or judgment or written final settlement agreement that violates this section by motion in the court in which the case was filed. (8) The court shall examine the disputed information or materials in camera. If the court finds that the information or materials or portions of the information or materials consist of information concerning a public hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow disclosure of only that portion of the information or materials necessary or useful to the public concerning the public hazard. (9) This section has no applicability to a protective order issued under Rule 26(c) of the Montana Rules of Civil Procedure or to any materials produced under the order. Any	(3) Except as provided in this section, a court may not enter a final order or judgment that has the purpose or effect of concealing a public hazard. (4) Any portion of a final order or judgment entered or written final settlement agreement entered into that has the purpose or effect of concealing a public hazard is contrary to public policy, is void, and may not be enforced. This section does not prohibit the parties from keeping the monetary amount of a written final settlement agreement confidential. (5) A party to civil litigation may not request, as a condition to the production of discovery, that another party stipulate to an order that would violate this section. (6) This section does not apply to: (a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected pursuant to Title 30, chapter 14, part 4; (b) other information that is confidential under state or federal law; or (c) a health care provider, as defined in 27-6-103. (7) Any affected person, including but not limited to a representative of the news media, has standing to contest a final order or judgment or written final settlement agreement that violates this section by motion in the court in which the case was filed. (8) The court shall examine the disputed information or materials in camera. If the court finds that the information or materials or portions of the information or materials consist of information concerning a public hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow disclosure of only that portion of the information or materials necessary or useful to the public concerning the public hazard. (9) This section has no applicability to a protective order issued under Rule 26(c) of the Montana Rules of Civil Procedure or to any materials produced under the order. Any	

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materials used as exhibits may be publicly disclosed pursuant to the provisions of subsections (7) and (8).	materials used as exhibits may be publicly disclosed pursuant to the provisions of subsections (7) and (8).	
Section 13. Secretary of state -- powers and duties -- rulemaking authority. (1) To ensure the proper management and safeguarding of public records, the secretary of state shall: (a) establish guidelines based on accepted industry standards for managing public records; (b) upon request of another executive branch agency, review, analyze, and make recommendations regarding executive branch agency filing systems and procedures; (c) operate the state records center for the purpose of storing and servicing public records not retained in office space; (d) provide information and training materials for all phases of efficient and effective records management; (e) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies; (f) consult with the department of administration pursuant to [section 14]; (g) adopt rules regarding management of public records; (h) adopt rules to implement the objectives of the state records committee and local government records committee; and (i) upon request, assist and advise in the establishment of records management procedures in the legislative and judicial branches of state government and provide services similar to those available to the executive branch. (2) In addition to the requirements under subsection (1), the secretary of state may operate a central microfilm unit that will microfilm, on a cost recovery basis, all records approved for filming by the office of origin and the secretary of state.	2-6-203. Secretary of state's powers and duties -- rulemaking authority. (1) In order to ensure the proper management and safeguarding of public records, the secretary of state shall: (a) establish guidelines for inventorying, cataloging, retaining, and transferring all public records of state agencies; (b) review and analyze all state agency filing systems and procedures and approve filing system equipment requests; (c) establish and operate the state records center, as authorized by appropriation, for the purpose of storing and servicing public records not retained in office space; (d) gather and disseminate information on all phases of records management, including current practices, methods, procedures, and devices for the efficient and economical management of records; (e) operate a central microfilm unit that will microfilm, on a cost recovery basis, all records approved for filming by the office of origin and the secretary of state; (f) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies; and (g) adopt rules regarding management of public records. (2) Upon request, the secretary of state shall assist and advise in the establishment of records management procedures in the legislative and judicial branches of state government and shall, as required by them, provide services similar to those available to the executive branch. 2-6-404. Rulemaking authority. The secretary of state shall adopt rules to implement 2-6-402 and 2-6-403.	Makes the central microfilm unit permissive instead of mandatory. Requires the Secretary of State to consult with the Dept. of Administration. Leaves the filing system review up to the request of the executive branch agency.

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Section 14. Department of administration -- powers and duties. (1) To ensure compatibility with the information technology systems of state government and to promote adherence to records management principles and best practices, the department of administration, in consultation with the secretary of state, shall establish standards for technological compatibility for state agencies for records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods. (2) The department of administration, in consultation with the secretary of state, shall approve all acquisitions of executive agency records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure compatibility with the standards developed under subsection (1). (3) The department of administration is responsible for the management and operation of equipment, systems, facilities, or processes integral to the department's central computer center and statewide telecommunications system.	2-6-214. Department of administration -- powers and duties. (1) In order to ensure compatibility with the information technology systems of state government, the department of administration shall develop standards for technological compatibility for state agencies for records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods. (2) The department of administration shall approve all acquisitions of executive agency records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure compatibility with the standards developed under subsection (1). (3) The department of administration is responsible for the management and operation of equipment, systems, facilities, or processes integral to the department's central computer center and statewide telecommunications system.	Adds language "in consultation with the secretary of state" to subsections (1) and (2) to ensure collaboration between information technology and records management communities.
Section 15. State records committee -- composition and meetings. (1) There is a state records committee composed of: (a) representatives of: (i) the department of administration; (ii) the legislative auditor; (iii) the attorney general; (iv) the secretary of state; (v) the Montana historical society; (vi) the clerk of the supreme court; and (vii) the state chief information officer; and	2-6-208. Records committee -- composition and meetings. (1) There is a committee to be known as the state records committee composed of representatives of: (a) the department of administration; (b) the legislative auditor; (c) the attorney general; (d) the secretary of state; and (e) the Montana historical society. (2) The representatives are to be designated by the head of the respective agencies, and their appointments must be submitted in writing to the secretary of state. (3) The committee shall meet at least quarterly.	Expands membership to include representatives of clerk of supreme court, state CIO, and 5 executive branch agencies. Ensures participation from IT and legal communities as well as the records management community.

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(b) five members representing executive branch agencies designated pursuant to subsections (4) and (5). (2) The state records committee is administered by the secretary of state, and the secretary of state's representative serves as the presiding officer for the committee. (3) The committee members representing the agencies in subsection (1)(a) are designated by the head of the respective agencies, and their appointments must be submitted in writing to the secretary of state. These committee members serve at the pleasure of the head of their respective agencies. (4) To implement subsection (1)(b), the committee members in subsection (1)(a) shall develop a rotation by which each of the executive branch agencies is designated to select a representative to serve a 2-year term as a committee member. The secretary of state shall adopt the rotation by administrative rule. (5) The committee shall establish guidelines for the heads of executive branch agencies in appointing representatives to ensure the executive branch representatives provide a balance of perspectives from records management, information technology, and legal professionals. (6) The committee shall meet at least quarterly. (7) Committee members shall serve without additional salary but are entitled to reimbursement for travel expense incurred while engaged in committee activities as provided for in 2-18-501 through 2-18-503. Expenses must be paid from the appropriations made for operation of their respective agencies.	(4) Committee members shall serve without additional salary but are entitled to reimbursement for travel expense incurred while engaged in committee activities as provided for in 2-18-501 through 2-18-503. Expenses must be paid from the appropriations made for operation of their respective agencies. (5) The state records committee is administered by the secretary of state, and the secretary of state's representative serves as the presiding officer for the committee.	
Section 16. State records committee duties and responsibilities. The purpose of the state records committee is to act as a resource for executive branch agencies and	2-6-204. State records committee approval. The committee shall approve, modify, or disapprove the recommendations on retention schedules of all public records to determine which documents not included in the provisions of this part are to be	Broadens the duties of the SRC as a resource for information and guidance, as well as strengthening the

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others by staying at the forefront of records management best practices. The committee shall: (1) gather and disseminate information on all phases of records management; (2) advise the secretary of state in developing records management standards, guidelines, and training materials; (3) develop guidelines to help agencies identify, maintain, and secure their essential records; (4) serve as a forum for continuing collaboration among records management, information technology, and legal professionals throughout state agencies; (5) make recommendations to the secretary of state for rulemaking regarding public records management; (6) regularly review existing public records laws and make recommendations to the secretary of state regarding pursuing statutory change; and (7) report to the governor and, as provided in 5-11-210, the legislature biennially on the activities of the committee, improvements in records management in state government, aspects of records management requiring further improvement, and committee recommendations and plans for further improvement.	designated public records and approve agency requests to dispose of such public records.	committee's advisory role in decisions related to records management.
Section 17. Retention and disposition subcommittee -- approval required for record disposal. (1) There is a subcommittee of the state records committee to be known as the retention and disposition subcommittee. The subcommittee is composed of the members of the state records committee who represent the following offices: (a) the department of administration; (b) the legislative auditor; (c) the attorney general; (d) the secretary of state; and (e) the Montana historical society.	2-6-212. Disposal of public records. (1) Except as provided in subsection (2), no public record may be disposed of or destroyed without the unanimous approval of the state records committee. When approval is required, a request for the disposal or destruction must be submitted to the state records committee by the agency concerned. (2) The state records committee may by unanimous approval establish categories of records for which no disposal request is required, providing those records are retained for the designated retention period.	Maintains the current SRC's composition and role in approving retention schedules and disposal requests by establishing a subcommittee of the current members for these duties.

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(2) The subcommittee shall approve, modify, or disapprove the recommendations on retention schedules of all public records. (3) Except as provided in subsection (4), no public record may be disposed of or destroyed without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction must be submitted to the subcommittee by the agency concerned. (4) The subcommittee may by unanimous approval establish categories of records for which no disposal request is required, provided that those records are retained for the designated retention period.		
Section 18. Historic records -- Montana historical society -- powers and duties. To ensure the proper management and safeguarding of historic records, the Montana historical society shall: (1) establish and operate the state archives as authorized by appropriation for the purpose of storing, preserving, and providing access to historic records transferred to the custody of the state archives; (2) in cooperation with the secretary of state, the local government records committee, and the state records committee, establish guidelines to inventory, catalog, retain, transfer, and provide access to all historic records; (3) maintain and enforce restrictions on access to historic records in the custody of the state archives in accordance with the provisions of this part; and (4) in accordance with the guidelines established pursuant to subsection (2), remove and destroy duplicate records and records considered to have no historical value.	2-6-302. Official records management -- powers and duties. In order to insure the proper management and safeguarding of official records, the Montana historical society shall: (1) establish and operate the state archives as authorized by appropriation for the purpose of storing and servicing official records transferred to the custody of the state archives; (2) in cooperation with the secretary of state, the local government records committee provided for in 2-6-402, and the state records committee provided for in 2-6-208, establish guidelines for the inventorying, cataloging, retention, and transfer of all official records; (3) maintain and enforce restrictions on access to official records in the custody of the state archives in accordance with the provisions of this part; (4) provide adequate housing and care of official records in the custody of the state archives to insure their proper preservation and use by the public; (5) in accordance with the guidelines established pursuant to subsection (2), remove and destroy duplicate	Clarifies MHS' role by explicitly including now-defined "historic records," because existing law is currently limited to "official records."

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	official records and official records of insignificant historical value from the records deposited in the state archives.	
Section 19. Constitutional officer records -- Montana historical society. (1) All constitutional officer records remain the property of the state. The records must be delivered by outgoing constitutional officers to their successors, who shall preserve, store, transfer, destroy, or dispose of and otherwise manage them in accordance with the provisions of this section. (2) Within 2 years after taking office as a constitutional officer, the current constitutional officer shall consult with staff members of the Montana historical society and transfer to the Montana historical society all of the constitutional officer records of the prior officeholder that are not necessary to the current operation of that office and considered worthy of preservation. (3) An outgoing constitutional officer, in consultation with staff members of the Montana historical society, shall review constitutional officer records and isolate any items of a purely personal nature. The personal papers are not subject to this section, but they may be deposited along with the constitutional officer records at the Montana historical society at the officer's discretion. (4) An outgoing constitutional officer, in consultation with staff members of the Montana historical society, may restrict access to certain segments of that officer's records. Restrictions may not be longer than the lifetime of the depositing official. Restricted access may be imposed only to protect the confidentiality of personal information contained in the records. Restricted access may not be imposed unless the demand of individual privacy clearly exceeds the merits of public disclosure. (5) Any question concerning the transfer or other status of constitutional officer records arising between the	2-6-304. Outgoing officials -- records management duties. (1) Within 2 years after the completion of the final term of office of a constitutionally designated and elected official of the executive branch of government, all of the official records not necessary to the current operation of that office are subject to storage, disposal, or transfer in accordance with the provisions of this part. (2) All official records of a retiring constitutionally designated and elected official not necessary to the current operation of that office and considered worthy of preservation by the Montana historical society must be transferred to the custody of the state archives within that 2-year period. (3) An outgoing official, in consultation with staff members of the Montana historical society, shall review official records and isolate any items of a purely personal nature. The personal papers are not subject to this part, but they may be deposited with the official papers at the official's discretion. (4) An outgoing official, in consultation with staff members of the Montana historical society, may restrict access to certain segments of official records. Restrictions may not be longer than the lifetime of the depositing official. Restricted access may be imposed only to protect the confidentiality of personal information contained in the records. Restricted access may not be imposed unless the demand of individual privacy clearly exceeds the merits of public disclosure. (5) Any question concerning the transfer or other status of official records arising between the state archives and an elected official's office must be decided by a four-fifths vote of the members of the state records committee. 2-6-303. Ownership of records -- transfer. (1) All official records remain the property of the state. They must be	Consolidates several current sections to address the unique concerns related to managing these specific records. Replaces "official record" with "constitutional officer record" to lessen confusion; otherwise much of the language in current law remains.

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state archives and a constitutional officer's office must be decided by a four-fifths vote of the members of the retention and disposition subcommittee provided for in [section 17].	delivered by outgoing officials to their successors and must be preserved, stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of this part. (2) A public officer may, with the concurrence of the Montana historical society, transfer to the state archives official records that the officer has been specifically directed by statute to preserve or keep in that office.	
Section 20. Permanent records -- agency responsibilities - state records center. (1) All permanent records no longer required in the current operation of the office where they are made or kept and all records of each agency or activity of the executive branch of state government that has been abolished or discontinued must be maintained by the agency or transferred to the state records center in accordance with approved records retention schedules. (2) When records are transferred to the state records center, the transferring agency does not lose its rights of control and access. The state records center is merely a custodian of the agency records, and access is only by agency approval. Agency records for which the state records center acts as custodian may not be subpoenaed from the state records center but must be subpoenaed from the agency to which the records belong. Fees may be charged to cover the cost of records storage and servicing. (3) Prior to transferring a permanent record to the state records center, the transferring agency shall first consult with the state archivist to determine whether the record is also a historic record. If the record is found to be a historic record, it must be transferred to the Montana historical society in accordance with the provisions of [section 18].	2-6-211. Transfer and storage of public records. (1) All public records not required in the current operation of the office where they are made or kept and all records of each agency, commission, committee, or any other activity of the executive branch of state government that may be abolished or discontinued must be, in accordance with approved records retention schedules, either transferred to the state records center or transferred to the custody of the state archives if the records are considered to have permanent administrative or historical value. (2) Subject to approval by the secretary of state pursuant to 2-6-206, the state records center and the state archives may store transferred permanent public records in locations other than in the buildings occupied by the state records center or the state archives when it is in the best interests of the state. (3) When records are transferred to the state records center, the transferring agency does not lose its rights of control and access. The state records center is only a custodian of the agency records, and access is only by agency approval. Agency records for which the state records center acts as custodian may not be subpoenaed from the state records center but must be subpoenaed from the agency to which the records belong. Fees may be charged to cover the cost of records storage and servicing. (4) If an agency does not wish to transfer records as provided in an approved retention schedule, the agency shall,	Addresses the management of "noncurrent" or "inactive" records with lasting value using current language, but eliminates current subsection (2) to avoid confusion regarding records stored in electronic format. Addresses the need for the state archivist to review these records to determine historic value.

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	within 30 days, notify the secretary of state and request a change in the schedule.	
Section 21. Agency records management duties. Each department head shall administer the executive branch agency's records management function and shall: (1) coordinate all aspects of the agency records management function in accordance with procedures prescribed by the secretary of state and the state records committee; (2) analyze records inventory data and examine and compare all inventories within the agency to minimize duplication of records; (3) review and approve records disposal requests for submission to the retention and disposition subcommittee; (4) review established records retention schedules to ensure they are complete and current and make recommendations to the secretary of state and the state records committee regarding minimal retentions for all copies of public records within the agency; (5) incorporate records management requirements into the agency information technology plan provided for in 2-17-523; (6) ensure that all agency employees receive appropriate and ongoing records management training; and (7) after considering guidance from the state records committee regarding records manager qualifications, officially designate a qualified agency records manager to manage the functions provided for in this section.	2-6-213. Agency responsibilities and transfer schedules. Each executive branch agency of state government shall administer its records management function and shall: (1) coordinate all aspects of the agency records management function; (2) manage the inventorying of all public records within the agency for disposition, scheduling, and transfer action in accordance with procedures prescribed by the secretary of state and the state records committee; (3) analyze records inventory data, examine and compare divisional or unit inventories for duplication of records, and recommend to the secretary of state and the state records committee minimal retentions for all copies of public records within the agency; (4) approve all records disposal requests that are submitted by the agency to the state records committee; (5) review established records retention schedules to ensure that they are complete and current; and (6) officially designate an agency records custodian to manage the functions provided for in this section.	Names the department head as the individual responsible to ensure proper management of agency records as part of the effort to make records management a higher priority. Updates language and adds requirements to provide records management training and designate a qualified records custodian.
Section 22. Local government records committee -- composition and meetings. (1) There is a local government records committee. (2) The committee consists of the following eight members:	2-6-402. Local government records committee -- creation. (1) There is a local government records committee. (2) The committee consists of the following eight members: (a) the state archivist;	Minor changes for clarification.

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(a) the state archivist; (b) the state records manager; (c) a representative of the department of administration; (d) two local government records managers appointed by the director of the Montana historical society; (e) two local government records managers appointed by the secretary of state; and (f) a person representing the Montana state genealogical society, appointed by the secretary of state, who shall serve as a volunteer. (3) Committee members subject to appointment shall hold office for a period of 2 years beginning on January 1 of the year following their appointment. (4) Any vacancies must be filled in the same manner they were filled originally. (5) The committee shall elect a presiding officer and a vice presiding officer. (6) The committee shall meet at least twice a year upon the call of the secretary of state or the presiding officer. (7) Except for the member appointed in subsection (2)(f), members of the committee not serving as part of their compensated government employment must be compensated in accordance with 2-18-501 through 2-18-503 for each day in committee attendance. Members who serve as part of their compensated government employment may not receive additional compensation, but the employing governmental entity shall furnish, in accordance with the prevailing per diem rates, a reasonable allowance for travel and other expenses incurred in attending committee meetings.	(b) the state records manager; (c) a representative of the department of administration; (d) two local records custodians, appointed by the director of the Montana historical society; (e) two additional local records custodians, appointed by the secretary of state; and (f) a citizen representing the Montana state genealogical society, appointed by the secretary of state, who shall serve as a volunteer. (3) Committee members subject to appointment shall hold office for a period of 2 years beginning on January 1 of the year following their appointment. (4) Any vacancies must be filled in the same manner that they were filled originally. (5) The committee shall elect a presiding officer and a vice presiding officer. (6) The committee shall meet twice a year upon the call of the secretary of state or the presiding officer. (7) Except as provided in subsection (2)(f), members of the committee not serving as part of their compensated government employment must be compensated in accordance with 2-18-501 through 2-18-503 for each day in committee attendance. Members who serve as part of their compensated government employment may not receive additional compensation, but the employing governmental entity shall furnish, in accordance with the prevailing per diem rates, a reasonable allowance for travel and other expenses incurred in attending committee meetings.	
Section 23. Local government records committee -- duties and responsibilities. The local government records committee shall:	2-6-403. Duties and responsibilities. (1) The local government records committee shall approve, modify, or disapprove proposals for local government records retention and disposition schedules.	Adds a local government records custodian to the destruction subcommittee.

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(1) approve, modify, or disapprove proposals for local government records retention and disposition schedules; (2) appoint a subcommittee, known as the local government records destruction subcommittee, to handle requests for disposal of records. The subcommittee consists of the state archivist, one of the local government records managers, and the representative of the department of administration. Unless specifically authorized by statute or by the retention and disposition schedule, a local government public record may not be destroyed or otherwise disposed of without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction of any local government records must be submitted to the subcommittee by the entity concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must be referred to the local government records committee for approval. When approval is obtained from the subcommittee or from the local government records committee for the disposal of a record, the local government records committee shall consider the inclusion of a new category of record for which a disposal request is not required and shall update the schedule as necessary. (3) establish a retention and disposition schedule for categories of records for which a disposal request is not required. The committee shall publish the retention and disposition schedules. Updates to those schedules, if any, must be published at least annually. (4) develop guidance for local governments to identify, maintain, and secure their essential records; (5) respond to requests for technical advice on matters relating to local government records; and (6) provide leadership and coordination in matters affecting the records of multiple local governments.	(2) The local government records committee shall appoint a subcommittee, known as the local government records destruction subcommittee, to handle requests for disposal of records. The subcommittee consists of the state archivist and a representative of the department of administration. Unless specifically authorized by statute or by the retention and disposition schedule, a local government public record may not be destroyed or otherwise disposed of without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction of any local government records must be submitted to the subcommittee by the entity concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must be referred to the local government records committee for approval. When approval is obtained from the subcommittee or from the local government records committee for the disposal of a record, the local government records committee shall consider the inclusion of a new category of record for which a disposal request is not required and shall update the schedule. (3) The local government records committee shall establish a retention and disposition schedule for categories of records for which a disposal request is not required. The committee shall publish the retention and disposition schedules. Updates to those schedules, if any, must be published at least annually. (4) The committee shall respond to requests for technical advice on matters relating to local government records. (5) The committee shall provide leadership and coordination in matters affecting the records of multiple local governments.	Adds a duty to provide guidance to local governments regarding essential records.

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Section 24. Disposal of local government public records prohibited prior to offering -- central registry -- notification. (1) A local government public record more than 10 years old may not be destroyed without it first being offered to the Montana historical society, the state archives, Montana public and private universities and colleges, local historical museums, local historical societies, Montana genealogical groups, and the general public. (2) The availability of a public record to be destroyed must be noticed to the entities listed in subsection (1) at least 60 days prior to disposal. (3) (a) Claimed records must be given to entities in the order of priority listed in subsection (1). (b) All expenses for the removal of claimed records must be paid by the entity claiming the records. (c) The local government records committee shall establish procedures by which public records must be offered and claimed pursuant to this section. (d) The local government records committee shall develop and maintain a central registry of the entities identified in subsection (1) who are interested in receiving notice of the potential destruction of public records pursuant to this section. The registry must be constructed to allow a local government entity to notify the local government records committee when the entity intends to destroy documents covered under this section and allows the local government records committee to subsequently notify the entities in the registry. A local government entity's notice to the local government records committee pursuant to this subsection and the record committee's notice to the entities listed on the registry fulfills the notification requirements of this section.	2-6-405. Destruction of local government public records prohibited prior to offering -- central registry -- notification. (1) A local government public record more than 10 years old may not be destroyed without it first being offered to the Montana historical society, the state archives, Montana public and private universities and colleges, local historical museums, local historical societies, Montana genealogical groups, and the general public. (2) The availability of a public record to be destroyed must be noticed to the entities listed in subsection (1) at least 180 days prior to disposal. (3) (a) Claimed records must be given to entities in the order of priority listed in subsection (1). (b) All expenses for the removal of claimed records must be paid by the entity claiming the records. (c) The local government records committee, provided for in 2-6-402, shall establish procedures by which public records must be offered and claimed pursuant to this section. (d) The local government records committee shall develop and maintain a central registry of the entities identified in subsection (1) who are interested in receiving notice of the potential destruction of public records pursuant to this section. The registry must be constructed to allow a local government entity to notify the local government records committee when the entity intends to destroy documents covered under this section and that allows the local government records committee to subsequently notify the entities in the registry. A local government entity's notice to the local government records committee pursuant to this subsection and the record committee's notice to the entities listed on the registry fulfills the notification requirements of this section.	Reduces the notice requirement from 180 days to 60 days.

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Section 25. Definitions. As used in [sections 25 through 27], the following definitions apply: (1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of computerized data that: (a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of a state agency; and (b) causes or is reasonably believed to cause loss or injury to a person. (2) "Individual" means a human being. (3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character. (4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and data elements are not encrypted: (i) a social security number or tax identification number; (ii) a driver's license number, an identification number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; or (iii) an account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to a person's financial account. (b) The term does not include publicly available information from federal, state, local, or tribal government records. (5) "Redaction" means the alteration of personal information contained within data to make all or a significant	2-6-501. Definitions. For the purposes of this part, the following definitions apply: (1) "Breach of the security of a data system" or "breach" means unauthorized acquisition of computerized data that: (a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of the state agency; and (b) causes or is reasonably believed to cause loss or injury to a person. (2) "Individual" means a human being. (3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character. (4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and the data elements are not encrypted: (i) a social security number or tax identification number; (ii) a driver's license number, an identification number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; or (iii) an account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to a person's financial account. (b) The term does not include publicly available information that is lawfully made available to the general public from federal, state, local, or tribal government records. (5) "Redaction" means the alteration of personal information contained within data to make all or a significant	Makes a minor change to subsection (4)(b).

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part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data. (6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment. (b) The term does not include an entity of the judicial branch. (7) "Third party" means: (a) a person with a contractual obligation to perform a function for a state agency; or (b) a state agency with a contractual or other obligation to perform a function for another state agency.	part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data. (6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment. (b) The term does not include an entity of the judicial branch. (7) "Third party" means: (a) a person with a contractual obligation to perform a function for a state agency; or (b) a state agency with a contractual or other obligation to perform a function for another state agency.	
Section 26. Protection of personal information -- compliance -- extensions. (1) Each state agency that maintains the personal information of an individual shall develop procedures to protect the personal information while enabling the state agency to use the personal information as necessary for the performance of its duties under federal or state law. (2) The procedures must include measures to: (a) eliminate the unnecessary use of personal information; (b) identify the person or state agency authorized to have access to personal information; (c) restrict access to personal information by unauthorized persons or state agencies; (d) identify circumstances when redaction of personal information is appropriate;	2-6-502. Protection of social security numbers -- compliance. (1) Each state agency that maintains the social security number of an individual shall develop procedures to protect the social security number while enabling the state agency to use the social security number as necessary for the performance of its duties under federal or state law. (2) The procedures must include measures to: (a) eliminate the unnecessary use of social security numbers; (b) identify the person or state agency authorized to have access to a social security number; (c) restrict access to social security numbers by unauthorized persons or state agencies; (d) identify circumstances when redaction of social security numbers is appropriate; (e) dispose of documents that contain social security numbers in a manner consistent with other record retention requirements applicable to the state agency;	Changes references from "social security number" to "personal information." Updates the deadline for newly-created agencies. Combines this section with the section allowing the State CIO to grant extensions.

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(e) dispose of documents that contain personal information in a manner consistent with other record retention requirements applicable to the state agency; (f) eliminate the unnecessary storage of personal information on portable devices; and (g) protect data containing personal information if that data is on a portable device. (3) Except as provided in subsection (4), each state agency that is created after [the effective date of this act] shall complete the requirements of this section within 1 year of its creation. (4) The chief information officer provided for in 2-17-511 may grant an extension to any state agency subject to the provisions of the Montana Information Technology Act provided for in Title 2, chapter 17, part 5. The chief information officer shall inform the information technology board, the office of budget and program planning, and the legislative finance committee of all extensions that are granted and of the rationale for granting the extensions. The chief information officer shall maintain written documentation that identifies the terms and conditions of each extension and the rationale for the extension.	(f) eliminate the unnecessary storage of social security numbers on portable devices; and (g) protect data containing social security numbers if that data is on a portable device. (3) Except as provided in 2-6-503, each state agency in existence on October 1, 2009, shall complete the requirements of this section by September 1, 2012. A state agency that is created after October 1, 2009, shall complete the requirements of this section within 1 year of its creation. 2-6-503. Extensions. The chief information officer provided for in 2-17-511 may grant an extension to any state agency subject to the provisions of the Montana Information Technology Act provided for in Title 2, chapter 17, part 5. The chief information officer shall inform the information technology board, the office of budget and program planning, and the legislative finance committee of all extensions that are granted and of the rationale for granting the extensions. The chief information officer shall maintain written documentation that identifies the terms and conditions of each extension and the rationale for the extension.	
Section 27. Notification of breach of security of data system. (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person. (b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.	2-6-504. Notification of breach of security of data system. (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person. (b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.	Minor changes for style.

BILL DRAFT LANGUAGE HB 123 - INTRODUCED VERSION	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system to perform a state agency function shall: (i) notify the state agency immediately following discovery of the breach if the personal information is reasonably believed to have been acquired by an unauthorized person; and (ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as part of the breach. This notification must be provided in the same manner as the notification required in subsection (1). (b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice. (3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation. (4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain: (a) an information security policy designed to safeguard personal information; and (b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).	(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system in order to perform a state agency function shall: (i) notify the state agency immediately following discovery of the breach of the security of a data system if the personal information is reasonably believed to have been acquired by an unauthorized person; and (ii) make reasonable efforts upon discovery or notification of a breach of the security of a data system to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as part of the breach of the security of a data system. This notification must be provided in the same manner as the notification required in subsection (1). (b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice. (3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation. (4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain: (a) an information security policy designed to safeguard personal information; and	

BILL DRAFT LANGUAGE HB 123 - INTRODUCED VERSION	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
Section 28. Custody and reproduction of certain records by secretary of state. (1) The secretary of state is charged with the custody of: (a) the enrolled copy of the constitution; (b) all the acts and resolutions passed by the legislature; (c) the journals of the legislature; (d) the great seal; (e) all books, records, parchments, maps, and papers kept or deposited in the secretary of state's office pursuant to law. (2) All records included in subsection (1) may be kept and reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in [Section 15]. (3) The state records committee may approve the disposal of original records once those records are reproduced as provided for in subsection (2), unless disposal takes the form of transfer of records. Reproduction is not necessary for transferred records. The reproduction or certified copy of a record may be used in place of the original for all purposes, including as evidence in any court or proceeding, and has the same force and effect as the original record. (4) The secretary of state shall prepare enlarged typed or photographic copies of the records whenever their production is required by law. (5) At least two copies must be made of all records reproduced as provided for in subsection (2). The secretary of state shall place one copy in a fireproof storage place and shall retain the other copy in the office with suitable equipment for displaying a record by projection to not less than its original	(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2). 2-6-111. Custody and reproduction of records by secretary of state. (1) The secretary of state is charged with the custody of: (a) the enrolled copy of the constitution; (b) all the acts and resolutions passed by the legislature; (c) the journals of the legislature; (d) the great seal; (e) all books, records, parchments, maps, and papers kept or deposited in the secretary of state's office pursuant to law. (2) All records included in subsection (1) may be kept and reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in 2-6-208. (3) The state records committee created by 2-6-208 may approve the disposal of original records once those records are reproduced as provided for in subsection (2), unless disposal takes the form of transfer of records. Reproduction is not necessary for transferred records. The reproduction or certified copy of a record may be used in place of the original for all purposes, including as evidence in any court or proceeding, and has the same force and effect as the original record. (4) The secretary of state shall prepare enlarged typed or photographic copies of the records whenever their production is required by law. (5) At least two copies must be made of all records reproduced as provided for in subsection (2). The secretary of state shall place one copy in a fireproof storage place and shall retain the other copy in the office with suitable equipment for	Updates references updated and recommends recodifying in Title 2, Chapter 15, Part 4.

BILL DRAFT LANGUAGE HB 123 - INTRODUCED VERSION	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
size and for preparing copies of the record for persons entitled to copies. (6) All duplicates of records must be identified and indexed.	displaying a record by projection to not less than its original size and for preparing copies of the record for persons entitled to copies. (6) All duplicates of records must be identified and indexed.	
Section 29. Filing and copying fees. (1) The secretary of state shall charge and collect fees for filing and copying services. (2) A member of the legislature or state or county officer may not be charged for any search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties. (3) The secretary of state may not charge a fee, other than as authorized in [section 4], for providing electronic information. (4) Fees must be collected in advance and, when collected by the secretary of state, are not refundable. (5) Fees authorized by this section must be set and deposited in accordance with 2-15-405.	2-6-103. Filing and copying fees. (1) The secretary of state shall charge and collect fees for filing and copying services. (2) A member of the legislature or state or county officer may not be charged for any search relative to matters appertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties. (3) The secretary of state may not charge a fee, other than the fees authorized in 2-6-110, for providing electronic information. (4) Fees must be collected in advance and, when collected by the secretary of state, are not refundable. (5) Fees authorized by this section must be set and deposited in accordance with 2-15-405.	Updates references and recommends recodifying in Title 2, Chapter 15, Part 4.

BILL DRAFT LANGUAGE HB 123 - INTRODUCED VERSION	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
NO SECTION INCLUDED IN BILL DRAFT	2-6-106. Possession of records. Each public officer is entitled to the possession of all books and papers pertaining to that office or in the custody of a former incumbent by virtue of that office.	Removes this existing section because the work group felt it was outdated and unnecessary to keep in statute, is inherent in the legal hold process, and is duplicative of civil procedure.

PROPOSED AMENDMENT BY MONTANA LEAGUE OF CITIES AND TOWNS

HB 123

NEW SECTION. Section 4. Public information requests --fees. (1) A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons.

(2) Upon receiving a request for public information, a public agency shall respond in a timely manner to the requesting person by:

(a) making public information maintained by the public agency available for inspection and copying by the requesting person; or

(b) providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered and any fees that may be charged pursuant to subsection(3).

(3) A public agency may charge a fee for fulfilling a public information request. The fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible. The fee must be documented. The fee may include the time required to gather public information. The public agency is not required to identify and gather the requested public information until the requesting party first agrees to be liable for the fee.

HOUSE BILL 123, As Introduced

Amendments Proposed By NorthWestern Energy

Contact John Alke (459-431-4630)

1. Page 2, lines 25 and 26.
Strike: In their entirety
Insert: ""Public information" means information prepared, owned, or used by any public agency, regardless of form, except for confidential information which must be protected against public disclosure under controlling law."
2. Page 3, lines 8 through 10.
Following: "public information of this state" on line 8;
Strike: Remainder of subsection;
Insert: "."
3. Page 5, lines 25 and 26.
Strike: In their entirety.

NAME TITLE
DATE 1/23/88
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MINUTES

MONTANA HOUSE OF REPRESENTATIVES 64th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: Chair Jeff Essmann, on February 3, 2015 at 8:00 AM, in Room 455
Capitol

ROLL CALL

Members Present:

Rep. Jeff Essmann, Chair (R)
Rep. Bill Harris, Vice Chair (R)
Rep. Casey Schreiner, Vice Chair (D)
Rep. Bryce Bennett (D)
Rep. Bob Brown (R)
Rep. Moffie Funk (D)
Rep. Frank Garner (R)
Rep. Edward Greef (R)
Rep. Denise Hayman (D)
Rep. Debra Lamm (R)
Rep. Forrest Mandeville (R)
Rep. Wendy McKamey (R)
Rep. Dale Mortensen (R)
Rep. Jean Price (D)
Rep. Ray L. Shaw (R)
Rep. Kathy Swanson (D)
Rep. Susan Webber (D)
Rep. Art Wittich (R)

Members Excused:

Rep. Jessica Karjala (D)
Rep. Austin Knudsen (R)

Members Absent: None

Staff Present: Jennifer Petersen, Committee Secretary
Sheri Scurr, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 342, 1/30/2015

00:00:02 Chair Essmann

HEARING ON HB 342

Opening Statement by Sponsor:

00:01:27 Rep. Bryce Bennett (D), HD 91, opened the hearing on HB 342, Allow for electronic address confirmation for biennial absentee ballot list.

EXHIBIT(sth24a01)

00:05:15 Chair Essmann

Proponents' Testimony:

00:05:25 Lisa Kimmet, Elections and Government Services Deputy, Office of the Secretary of State (SOS)

00:07:05 Chair Essmann

00:07:09 Linda Stoll, Montana Association of Clerks and Records and Election Administrators (MACREA)

00:07:40 Chair Essmann

Opponents' Testimony:

00:07:54 Becky Stockton, self

00:09:33 Chair Essmann

Informational Testimony: None

Questions from Committee Members and Responses:

00:09:50 Rep. Mandeville

00:10:15 Rep. B. Bennett

00:10:55 Rep. Greef

00:11:29 Rep. B. Bennett

00:12:00 Rep. Greef

00:12:54 Rep. B. Bennett

00:13:27 Rep. Funk

00:13:51 Rep. B. Bennett

00:14:20 Rep. Harris

00:15:23 Lisa Kimmet, SOS

00:16:35 Rep. Harris

00:16:50 Rep. Wittich

00:17:25 Linda Stoll, MACREA

00:18:07 Rep. Wittich

00:18:37 Lisa Kimmet, SOS

00:20:03 Rep. McKamey

00:20:28 Lisa Kimmet, SOS

00:21:03 Chair Essmann

00:21:42 Lisa Kimmet, SOS

00:22:27 Chair Essmann

00:22:30 Lisa Kimmet, SOS

00:22:33 Chair Essmann

Closing by Sponsor:

00:22:41 Rep. B. Bennett

00:25:26 Chair Essmann

EXECUTIVE ACTION ON HB 123

00:27:26 Rep. Mandeville

00:28:24 Chair Essmann

00:28:45 **Motion:** Rep. Harris moved that **HB 123 DO PASS.**

00:29:00 Chair Essmann

00:29:28 **Motion:** Rep. Mandeville moved that **HB 123 BE AMENDED.**

EXHIBIT(sth24a02)

Discussion:

00:29:38 Chair Essmann

00:29:41 Laura Sankey, Legislative Services Division (LSD)

00:34:29 Chair Essmann

00:34:41 Rep. Hayman

00:35:00 Rep. Mandeville

00:35:37 Chair Essmann

00:36:15 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

00:36:48 **Motion:** Rep. Mandeville moved that **HB 123 BE AMENDED.**

EXHIBIT(sth24a03)

Discussion:

00:36:59 Laura Sankey, LSD

00:38:36 Chair Essmann

00:39:00 Laura Sankey, LSD

00:39:19 Chair Essmann

00:39:24 Laura Sankey, LSD

00:39:34 Chair Essmann

00:39:43 Rep. Hayman

00:40:02 Chair Essmann

00:40:06 Rep. Mandeville

00:40:16 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

00:40:47 **Motion:** Rep. Mandeville moved that **HB 123 BE AMENDED.**

EXHIBIT(sth24a04)

Discussion:

00:40:55 Chair Essmann

00:40:59 Laura Sankey, LSD
 00:42:48 Chair Essmann
 00:43:14 Rep. D. Jones (HD 46)
 00:43:22 Chair Essmann

00:43:28 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

00:44:02 **Motion:** Rep. Mandeville moved that **HB 123 BE AMENDED.**
[**EXHIBIT**\(sth24a05\)](#)

Discussion:

00:44:09 Laura Sankey, LSD
 00:44:57 Chair Essmann
 00:45:27 Rep. D. Jones (HD 46)
 00:45:32 Chair Essmann

00:45:37 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

00:45:59 **Motion:** Rep. Mandeville moved that **HB 123 BE AMENDED.**
[**EXHIBIT**\(sth24a06\)](#)

Discussion:

00:46:08 Laura Sankey, LSD
 00:47:58 Chair Essmann
 00:48:30 Laura Sankey, LSD
 00:49:00 Chair Essmann
 00:49:03 Rep. Mandeville
 00:49:28 Rep. Wittich
 00:49:52 Laura Sankey, LSD
 00:50:09 Chair Essmann
 00:51:00 Rep. Mandeville
 00:51:01 Chair Essmann
 00:51:15 Rep. Mandeville
 00:51:40 Rep. Wittich
 00:52:00 Chair Essmann

00:52:16 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

00:52:43 **Motion:** Rep. Mandeville moved that **HB 123 BE AMENDED.**
[**EXHIBIT**\(sth24a07\)](#)

00:52:51 Laura Sankey, LSD
 00:54:33 Chair Essmann

00:54:45 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

00:55:06 **Motion:** Rep. Mandeville moved that **HB 123 BE AMENDED.**
[EXHIBIT\(sth24a08\)](#)

00:55:16 Laura Sankey, LSD
00:58:39 Chair Essmann
00:58:52 Laura Sankey, LSD
00:58:56 Rep. Lamm
00:59:18 Laura Sankey, LSD
01:00:06 Rep. Lamm
01:00:25 Laura Sankey, LSD
01:01:00 Chair Essmann
01:01:04 Rep. B. Bennett
01:01:56 Chair Essmann
01:02:00 Rep. Wittich
01:03:31 Chair Essmann

01:03:46 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

01:04:19 **Motion:** Rep. Mandeville moved that **HB 123 BE AMENDED.**
[EXHIBIT\(sth24a09\)](#)

Discussion:

01:04:29 Laura Sankey, LSD
01:05:12 Chair Essmann
01:05:18 Laura Sankey, LSD
01:05:25 Chair Essmann
01:05:46 Laura Sankey, LSD
Chair Essmann
01:06:56 Laura Sankey, LSD
01:07:04 Chair Essmann

01:07:23 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

01:07:42 **Motion:** Rep. Mandeville moved that **HB 123 BE AMENDED.**
[EXHIBIT\(sth24a10\)](#)

Discussion:

01:07:52 Laura Sankey, LSD
01:09:19 Chair Essmann
01:09:25 Rep. Schreiner
01:09:44 Rep. Mandeville
01:10:11 Rep. Schreiner
01:10:35 Rep. Mandeville

01:10:38 **Substitute Motion:** Rep. Funk made a substitute motion that **HB 123 BE AMENDED.**
[EXHIBIT\(sth24a11\)](#)

Discussion:

01:10:53 Chair Essmann
01:11:36 Rep. Funk
01:11:47 Chair Essmann
01:11:55 Rep. Funk
01:13:14 Rep. Mandeville
01:13:28 Chair Essmann
01:13:35 John MacDonald, Montana Newspaper Association (MNA)
01:14:45 Rep. Garner
01:15:21 Jodie Foley, Montana Historical Society (MHS)
01:15:50 Rep. Wittich
01:16:25 Rep. B. Bennett
01:16:58 Jodie Foley, MHS
01:17:56 Rep. Schreiner
01:18:50 Chair Essmann
01:19:52 John MacDonald, MNA
01:20:44 Chair Essmann

01:20:54 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

01:21:22 Chair Essmann

01:21:28 **Motion:** Rep. Wittich moved that **HB 123 BE AMENDED.**
EXHIBIT(sth24a12)

Discussion:

01:26:41 Rep. Garner
01:27:25 Rep. Wittich
01:28:26 Rep. McKamey
01:28:59 Rep. Wittich
01:29:15 Chair Essmann
01:29:42 Laura Sankey, LSD
01:29:46 Chair Essmann
01:29:50 Rep. Wittich
01:30:04 Chair Essmann
01:30:18 Rep. Schreiner
01:31:24 Chair Essmann
01:32:07 Rep. D. Jones (HD 46)
01:33:25 Rep. Lamm
01:33:45 Rep. D. Jones (HD 46)
01:34:15 Rep. Wittich
01:35:23 Rep. Hayman
01:36:11 Rep. Greef
01:37:14 Chair Essmann
01:38:28 Rep. Garner
01:38:31 Chair Essmann
01:39:02 Rep. Garner
01:39:27 Chair Essmann
01:39:31 Rep. Wittich

01:40:40 Rep. Schreiner
01:41:13 Chair Essmann

01:41:18 **Vote:** Motion carried 18-2 by roll call vote with Rep. Hayman and Rep. Karjala voting no. Rep. Karjala and Rep. Knudsen voted by proxy.

01:43:05 **Motion:** Rep. Garner moved that **HB 123 BE AMENDED as follows:**
To fix the catch-line/title in section 3 (page 3, line 7) to read exactly or similar to "Access to public information--safety and security exceptions--Montana Historical Society collection exception"

Discussion:

01:43:19 Laura Sankey, LSD
01:44:01 Chair Essmann
01:44:11 Laura Sankey, LSD
01:44:36 Chair Essmann
01:44:45 Rep. B. Bennett
01:45:16 Laura Sankey, LSD
01:45:51 Chair Essmann

01:46:02 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

01:46:34 **Motion/Vote:** Rep. Mandeville moved that **HB 123 DO PASS AS AMENDED.** Motion carried 19-1 by voice vote with Rep. Hayman voting no. Rep. Karjala and Rep. Knudsen voted by proxy.

01:47:40 Chair Essmann
01:49:18 Rep. Schreiner
01:49:37 Chair Essmann
01:50:10 Rep. B. Bennett
01:50:33 Chair Essmann
01:50:53 Rep. Garner
01:51:22 Chair Essmann
01:51:36 Rep. Garner
01:51:46 Sheri Scurr, Legislative Services Division (LSD)

01:51:54 Chair Essmann, Recess
02:12:24 Chair Essmann, Reconvene

EXECUTIVE ACTION ON HB 48

02:12:44 **Motion:** Rep. Harris moved that **HB 48 DO PASS.**

Discussion:

02:12:52 Chair Essmann
[EXHIBIT\(sth24a13\)](#)
[EXHIBIT\(sth24a14\)](#)
02:13:30 Rep. Harris

02:14:10 Rep. Funk
 02:15:15 Rep. Wittich
 02:17:39 Rep. B. Bennett
 02:19:51 Rep. McKamey
 02:20:21 Rep. Wittich
 02:21:17 Rep. Mandeville
 02:22:10 Rep. Garner
 02:23:18 Rep. Lamm
 02:24:51 Chair Essmann
 02:24:56 Rep. Schreiner
 02:27:04 Rep. Price
 02:28:14 Rep. Webber
 02:28:51 Rep. B. Brown
 02:29:20 Rep. Funk
 02:30:21 Chair Essmann

02:32:19 **Vote:** Motion failed 10-10 by roll call vote with Rep. Bennett, Rep. Funk, Rep. Garner, Rep. Hayman, Rep. Karjala, Rep. Price, Rep. Schreiner, Rep. Shaw, Rep. Swanson and Rep. Webber voting aye. Rep. Karjala and Rep. Knudsen voted by proxy.

02:34:03 **Motion/Vote:** Rep. Garner moved that **HB 48 BE TABLED**. Motion carried 11-9 by roll call vote with Rep. Bennett, Rep. Funk, Rep. Hayman, Rep. Karjala, Rep. McKamey, Rep. Price, Rep. Schreiner, Rep. Swanson and Rep. Webber voting no. Rep. Karjala and Rep. Knudsen voted by proxy.

EXECUTIVE ACTION ON HB 170

02:35:49 **Motion:** Rep. Garner moved that **HB 170 DO PASS**.

02:36:35 Sheri Scurr, LSD
 02:36:52 Chair Essmann
 02:36:56 Rep. Garner
 02:38:56 Chair Essmann

02:39:17 Without objection, Rep. Garner withdrew the **DO PASS** motion.

02:39:24 **Motion:** Rep. Garner moved **TO DRAFT A COMMITTEE BILL TO ADDRESS THE FINANCIAL ASPECT OF HB 170**.

Discussion:

02:40:01 Chair Essmann
 02:40:08 Rep. Garner
 02:40:45 Rep. Wittich
 02:42:06 Rep. Schreiner
 02:43:22 Rep. Wittich
 02:43:35 Rep. Schreiner
 02:43:51 Rep. Wittich
 02:44:50 Chair Essmann

02:46:13 Rep. Garner
02:46:29 Chair Essmann

02:47:11 Without objection, Rep. Garner withdrew the **TO DRAFT A COMMITTEE BILL TO ADDRESS THE FINANCIAL ASPECT OF HB 170** motion.

02:48:13 Rep. Hayman
02:48:28 Rep. Garner
02:48:35 Rep. Hayman
02:48:39 Rep. Garner
02:48:50 Rep. McKamey
02:49:08 Chair Essmann

EXECUTIVE ACTION ON HB 251

02:49:58 **Motion:** Rep. Harris moved that **HB 251 DO PASS.**

02:50:03 Chair Essmann
02:50:06 Sheir Scurr, LSD
02:50:46 Chair Essmann

02:50:50 **Motion:** Rep. Harris moved that **HB 251 BE AMENDED.**
[EXHIBIT\(sth24a15\)](#)

02:51:01 Chair Essmann

02:51:52 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

02:52:33 Chair Essmann

02:52:57 **Motion/Vote:** Rep. B. Bennett moved that **HB 251 BE AMENDED.** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

[EXHIBIT\(sth24a16\)](#)

02:55:03 **Motion:** Rep. Funk moved that **HB 251 BE AMENDED**
[EXHIBIT\(sth24a17\)](#)

Discussion:

02:56:59 Chair Essmann
02:57:07 Rep. Garner
02:57:38 Rep. Funk
02:57:58 Chair Essmann
02:59:27 Rep. B. Bennett
03:00:50 Rep. Mandeville

03:01:54 **Vote:** Motion failed 8-12 by roll call vote with Rep. Bennett, Rep. Funk, Rep. Hayman, Rep. Karjala, Rep. Price, Rep. Schreiner, Rep. Swanson and Rep. Webber voting aye. Rep. Karjala and Rep. Knudsen voted by proxy.

03:03:27 Chair Essmann, Recess

03:07:15 Chair Essmann, Reconvene

03:07:25 **Motion:** Rep. Harris moved that **HB 251 BE AMENDED.**
EXHIBIT(sth24a18)

03:08:00 Chair Essmann

03:09:25 **Vote:** Motion carried unanimously by voice vote. Rep. Karjala and Rep. Knudsen voted by proxy.

03:09:57 **Motion:** Rep. Harris moved that **HB 251 DO PASS AS AMENDED.**

Discussion:

03:10:12 Rep. Schreiner

03:11:27 Chair Essmann

03:11:35 Rep. McKamey

03:12:38 Rep. Schreiner

03:13:46 Rep. Harris

03:14:20 Rep. Garner

03:14:56 Rep. B. Bennett

03:16:39 Chair Essmann

03:18:59 **Vote:** Motion carried 19-1 by voice vote with Rep. Schreiner voting no. Rep. Karjala and Rep. Knudsen voted by proxy.

EXECUTIVE ACTION ON HB 101

03:19:29 Chair Essmann

03:19:39 Rep. Wittich

03:19:42 Chair Essmann

03:20:45 Rep. Wittich

EXHIBIT(sth24a19)

03:22:20 Chair Essmann

03:22:37 **Motion/Vote:** Rep. McKamey moved **TO RECONSIDER THE COMMITTEE'S PREVIOUS ACTION ON HB 101.** Motion carried 18-0 by voice vote.

03:23:04 **Motion:** Rep. Wittich moved that **HB 101 DO PASS.**

03:23:13 **Motion:** Rep. Wittich moved that **HB 101 BE AMENDED.**

Discussion:

03:23:21 Rep. Mandeville

03:23:47 Rep. Wittich

03:24:26 Chair Essmann

03:24:35 Rep. Hayman

03:24:59 Chair Essmann

03:25:28 Without objection, Rep. Wittich withdrew the **BE AMENDED** motion. Without objection, Rep. Wittich withdrew the **DO PASS** motion.

03:25:31 Rep. Funk

03:25:40 Chair Essmann

ADJOURNMENT

Adjournment: 03:26:29

Jennifer Petersen, Secretary

jp

Additional Documents:

EXHIBIT([sth24aad.pdf](#))

Amendments to House Bill No. 123
1st Reading Copy

Requested by Representative Donald Jones

For the House State Administration Committee

Prepared by Laura Sankey
February 2, 2015 (3:52pm)

1. Page 4.

Following: line 1

Insert: "(4) (a) The secretary of state is authorized to charge fees under this section. The fees must be set and deposited in accordance with 2-15-405. The fees must be collected in advance.

(b) The secretary of state may not charge a fee to a member of the legislature or public officer for any search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties."

2. Page 5, line 29.

Following: "officer records"

Insert: "-- exception"

3. Page 6.

Following: line 6

Insert: "(4) Pursuant to 2-15-403, this section does not apply to certified copies provided by the secretary of state for information contained in the secretary of state's corporate and uniform commercial code electronic filing system."

4. Page 7, line 9 through line 11.

Strike: "a corporate information list" on line 9 through "in this state" on line 11

Insert: "the secretary of state's electronic filing system developed pursuant to 2-15-404 and containing corporate and uniform commercial code information"

5. Page 19, line 10.

Strike: "books" through "papers"

Insert: "documents"

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6. Page 19, line 19 through line 25.

Strike: subsections (4) through (6) in their entirety

7. Page 19, line 27 through page 20, line 5.

Strike: Section 29 in its entirety

Renumber: subsequent sections

8. Page 42, line 30.

Strike: "[Sections 28 and 29] are"

Insert: "[Section 28] is"

9. Page 43, line 1.

Strike: "[sections 28 and 29]"

Insert: "[section 28]"

- END -

Amendments to House Bill No. 123
1st Reading Copy

For the House State Administration Committee

Prepared by Laura Sankey
February 2, 2015 (3:53pm)

1. Page 2, line 19.

Following: "city-county,"

Insert: "special district,"

2. Page 2, line 23.

Following: "including a"

Strike: "municipality" through "district"

Insert: "local government"

3. Page 3, line 29.

Strike: "The"

Insert: "Except where a fee is otherwise provided for by law,
the"

4. Page 5, line 10.

Strike: "state"

Insert: "public agency possessing the records"

- END -

VIEWS

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Amendments to House Bill No. 123
1st Reading Copy

Requested by Representative Donald Jones

For the House State Administration Committee

Prepared by Laura Sankey
February 2, 2015 (3:53pm)

1. Title, page 1, line 20.

Following: "SECTIONS"

Insert: "2-3-212,"

2. Page 20, line 7.

Insert: "Section 30. Section 2-3-212, MCA, is amended to read:

"2-3-212. Minutes of meetings -- public inspection. (1)

Appropriate minutes of all meetings required by 2-3-203 to be open must be kept and must be available for inspection by the public. If an audio recording of a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an official recording is made, a written record of the meeting must also be made and must include the information specified in subsection (2).

(2) Minutes must include without limitation:

(a) the date, time, and place of the meeting;

(b) a list of the individual members of the public body, agency, or organization who were in attendance;

(c) the substance of all matters proposed, discussed, or decided; and

(d) at the request of any member, a record of votes by individual members for any votes taken.

(3) If the minutes are recorded and designated as the official record, a log or time stamp for each main agenda item is required for the purpose of providing assistance to the public in accessing that portion of the meeting.

(4) Any time a presiding officer closes a public meeting pursuant to 2-3-203, the presiding officer shall ensure that accurate and appropriate minutes are kept of the closed portion of the meeting. The minutes from the closed portion of the meeting may not be made available for inspection except pursuant to a court order."

{Internal References to 2-3-212: 2-3-103 x}"

Renumber: subsequent sections

- END -

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Amendments to House Bill No. 123
1st Reading Copy

Requested by Representative Forrest Mandeville

For the House State Administration Committee

Prepared by Laura Sankey
February 2, 2015 (3:54pm)

1. Title, page 1, line 20.

Following: "SECTIONS"

Insert: "2-3-221,"

2. Page 5, line 19.

Strike: "plaintiff"

Insert: "prevailing party"

3. Page 5, line 20.

Following: "constitutional"

Insert: "or statutory"

4. Page 5, line 25.

Strike: "plaintiff"

Insert: "person whose original information request was denied"

Strike: "plaintiff's"

Insert: "person's"

5. Page 5, line 26.

Following: "constitution"

Insert: "or under the provisions of [sections 1 through 24]"

6. Page 20, line 6.

Insert: "Section 30. Section 2-3-221, MCA, is amended to read:

"2-3-221. **Costs to plaintiff prevailing party in certain actions to enforce constitutional right to know.** A plaintiff person who alleges a violation and who prevails in an action brought in district court to enforce the plaintiff's rights under Article II, section 9, of the Montana constitution may be awarded costs and reasonable attorney fees."

{Internal References to 2-3-221: None.}"

- END -

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Amendments to House Bill No. 123
1st Reading Copy

Requested by Representative Forrest Mandeville

For the House State Administration Committee

Prepared by Laura Sankey
February 2, 2015 (3:54pm)

1. Page 3, line 27 through line 28.

Strike: "with an estimate" on line 27 through "subsection (3)" on line 28

Insert: "by:

(a) making the public information maintained by the public agency available for inspection and copying by the requesting person; or

(b) providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered and any fees that may be charged pursuant to subsection (3)"

2. Page 4, line 1.

Following: "information."

Insert: "The public agency may require the requesting person to pay the estimated fee prior to identifying and gathering the requested public information."

- END -

100-443887-100

Amendments to House Bill No. 123
1st Reading Copy

Requested by Representative Forrest Mandeville

For the House State Administration Committee

Prepared by Laura Sankey
February 2, 2015 (3:54pm)

1. Title, page 1, line 7.

Following: "PRIVACY"

Insert: "EXCEPTIONS; PROVIDING SAFETY"

2. Page 3, line 7.

Following: "privacy"

Insert: "exceptions -- safety"

3. Page 3, line 11.

Strike: "individual privacy or"

4. Page 3, line 13.

Strike: "may jeopardize"

Insert: "jeopardizes"

5. Page 3, line 14 through line 16.

Strike: "Security features" on line 14 through "and locations."
on line 16

6. Page 3, line 17 through line 18.

Strike: "an individual" on line 17 through "security interest" on
line 18

Insert: "individual or public safety or the security of public
facilities"

7. Page 7, line 16.

Following: line 16

Insert: "(9) This section does not apply to lists of individuals
who sign attendance sheets or sign-in sheets at a hearing or
meeting of a public agency."

Renumber: subsequent subsections

- END -

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31-28400-2

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Amendments to House Bill No. 123
1st Reading Copy

Requested by Representative Forrest Mandeville

For the House State Administration Committee

Prepared by Laura Sankey
February 2, 2015 (3:56pm)

1. Page 43, line 2.

Insert: "NEW SECTION. Section 60. {standard} Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

- END -

1. XXXXXXXXXX
2. XXXXXXXXXX
3. XXXXXXXXXX



Montana Legislative History

Chapter: 348 Session L: 2015 Checklist of Bill History

Bill Number: 123 House / Senate

History and Final Status Sheet



Introduced Bill



Fiscal Note



Third Reading Bill



Final Version of Bill



House

Committee:
State Admin.
Appropriations

Hearing Date(s):

01-23-2015

02-12-2015

Committee Report:

Senate

Committee:
State Admin
Finance + Claims

Hearing Date(s):

3-16-2015

04-13-2015

Committee Report:

Conference Committee n/k

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: emg

Date: 11-16-2023

Notes:

Amendments to House Bill No. 123
1st Reading Copy

Requested by Representative Forrest Mandeville

For the House State Administration Committee

Prepared by Laura Sankey
February 2, 2015 (3:56pm)

1. Page 3, line 19 through line 21.

Strike: subsection (3) in its entirety

Insert: "(3) The Montana historical society may honor restrictions that are imposed on certain items by a collection creator or donor as long as the restrictions do not apply to public information. Restrictions may not be longer than the lifetime of the donor. Restrictions may be imposed only to protect the confidentiality of personal information contained in the donated items. Restrictions may not be imposed unless the demand of individual privacy clearly exceeds the merits of immediate public access."

- END -

100-100000-1
100-100000-2
100-100000-3

Amendments to House Bill No. 123
1st Reading Copy

Requested by Representative Moffie Funk

For the House State Administration Committee

Prepared by Laura Sankey
February 2, 2015 (3:57pm)

1. Page 3, line 19 through line 21.

Strike: subsection (3) in its entirety

Insert: "(3) The Montana historical society may honor restrictions imposed by private record donors as long as the restrictions do not apply to public information. All restrictions must expire no later than 50 years from the date the private record was received. Upon the expiration of the restriction, the private records will be made accessible to the public."

- END -

Page 1 of 1
Date: 10/10/2019
Time: 10:10:10
User: admin

Amendments to House Bill No. 123
1st Reading Copy

Requested by Representative Art Wittich

For the House State Administration Committee

Prepared by Laura Sankey
February 2, 2015 (3:57pm)

1. Title, page 1, line 20.

Following: "SECTIONS"

Insert: "2-3-221,"

2. Page 5, line 26.

Strike: "may"

Insert: "must"

3. Page 20, line 6.

Insert: "Section 30. Section 2-3-221, MCA, is amended to read:

"2-3-221. Costs to plaintiff in certain actions to enforce constitutional right to know. A plaintiff who prevails in an action brought in district court to enforce the plaintiff's rights under Article II, section 9, of the Montana constitution ~~may~~ must be awarded costs and reasonable attorney fees."

{ Internal References to 2-3-221: None. }"

- END -

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MINUTES

MONTANA HOUSE OF REPRESENTATIVES 64th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: Chair Nancy Ballance, on February 12, 2015 at 3:00 PM, in Room 102 Capitol

ROLL CALL

Members Present:

Rep. Nancy Ballance, Chair (R)
Rep. Pat Noonan, Vice Chair (D)
Rep. Ryan Osmundson, Vice Chair (R)
Rep. Randy Brodehl (R)
Rep. Mike Cuffe (R)
Rep. Ron Ehli (R)
Rep. Janet Ellis (D)
Rep. Carl Glimm (R)
Rep. Dave Hagstrom (R)
Rep. Kenneth Holmlund (R)
Rep. Donald W. Jones (R)
Rep. Kelly McCarthy (D)
Rep. Rae Peppers (D)
Rep. Mitch Tropila (D)
Rep. Brad Tschida (R)
Rep. Tom Woods (D)

Members Excused: Rep. Tom Burnett (R)
Rep. Kimberly Dudik (D)
Rep. Roy Hollandsworth (R)
Rep. Robert (Bob) Mehlhoff (D)

Members Absent: None

Staff Present: Katya Grover, Committee Secretary
Julie Johnson, Legislative Branch
Joe Triem, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 123, 2/6/2015; HB 3, 2/6/2015; HB 4, 2/6/2015
Executive Action: HB 123; HB 354

00:01:47 Rep. Dudik arrived.

00:01:48 Chair Ballance

HEARING ON HB 123

Opening Statement by Sponsor:

00:02:09 Rep. Donald Jones (R), HD 46, opened the hearing on HB 123, Generally revise public records laws.

Proponents' Testimony: none

Opponents' Testimony: none

Informational Testimony: none

Questions from Committee Members and Responses:

00:02:46 Rep. Ellis
00:03:29 Rep. Jones
00:03:56 Joe Triem, Legislative Fiscal Division (LFD)
00:04:42 Rep. McCarthy
00:04:55 Joe Triem, LFD
00:05:13 Rep. Burnett arrived.
00:05:31 Re. Hollandsworth arrived.
00:05:40 Chair Ballance

Closing by Sponsor: chose not to close

HEARING ON HB 3

Opening Statement by Sponsor:

00:06:12 Rep. Pat Noonan (D), HD 74, opened the hearing on HB 3, Supplemental Appropriations.

Proponents' Testimony:

00:12:36 Amy Sassano, Deputy Director, Office of Budget and Program Planning (OBPP)
00:19:18 Sheila Hogan, Director, Department of Administration (D of A)
00:24:08 Harry Freebourn, Administrative Director, Office of Public Defender (OPD)
00:28:10 Jonathan Motl, Commissioner of Political Practices (CPP)
00:37:30 Ken Bailey, Assistant Superintendent, Office of Public Instructions (OPI)
00:38:32 Pat Schlauch, Administrator, Department of Corrections (COR)

Opponents' Testimony: none

Informational Testimony: none

Questions from Committee Members and Responses:

00:41:11 Rep. Brodehl
00:41:52 Amy Sassano, OBPP

00:42:54 Rep. Mehlhoff arrived.
 00:43:32 Rep. Burnett
 00:43:43 Amy Sassano, OBPP
 00:43:57 Rep. Brodehl
 00:44:05 Amy Sassano, OBPP
 00:44:10 Rep. Brodehl
 00:44:51 Rep. Dudik
 00:45:33 Harry Freebourn, OPD
 00:46:38 Rep. Dudik
 00:46:47 Harry Freebourn, OPD
 00:46:54 Rep. Dudik
 00:47:06 Harry Freebourn, OPD
 00:47:55 Rep. Dudik
 00:48:09 Harry Freebourn, OPD
 00:48:23 Rep. Tschida
 00:49:09 Ken Bailey, OPI
 00:49:24 Rep. Tschida
 00:49:29 Ken Bailey, OPI
 00:49:53 Rep. Dudik
 00:50:36 Pat Schlauch, COR
 00:50:59 Rep. Dudik
 00:51:19 Pat Schlauch, COR

Closing by Sponsor:

00:51:42 Rep. Noonan
 00:53:31 Rep. Osmundson assumed chairmanship.

HEARING ON HB 4

Opening Statement by Sponsor:

00:54:03 Rep. Nancy Ballance (R), HD 87, opened the hearing on HB 4, Appropriations by budget amendment.

[EXHIBIT\(aph32a01\)](#)

Proponents' Testimony:

00:56:22 Amy Sassano, Deputy Director, Office of Budget and Program Planning (OBPP)
 00:57:03 Sheila Hogan, Director, Department of Administration (D of A)
 00: 58:17 Jon Bennion, Deputy Attorney General, Department of Justice (DOJ)
 00:59:52 Chair Osmundson

Opponents' Testimony: none

Informational Testimony:

01:00:22 Kim Moog, Administrator, Department of Labor and Industry (DLI)
 01:00:32 Ken Bailey, Assistant Superintendent, Office of Public Instructions (OPI)
 01:00:44 Denise King, Central Services Administrator, Montana Historical Society (MHS)
 01:00:54 Tricia Schiltz, Chief Financial Officer, Department of Natural Resources and Conservation (DNRC)

01:01:04 Beth McLaughlin, Administrator, Montana Supreme Court (SC)
01:01:11 Larry Flynn, Administrator, Montana Department of Transportation (DOT)
01:01:18 Tom Butler, Chief, Montana Highway Patrol (MHP)
01:01:26 Brandi Pierson, Chief Fiscal Officer, Secretary of State (SOS)
01:01:37 Dean Rude, Chief Financial Officer, Department of Environmental Quality (DEQ)
01:01:49 Pat Schlauch, Administrator, Department of Corrections (COR)
01:01:55 Jeff Hagener, Director, Montana Fish, Wildlife and Parks (FWP)
01:02:01 Sundi West, Executive Operations Manager, Department of Military Affairs (DMA)
01:02:11 Deb Matteucci, Executive Director, Montana Board of Crime Control (MBCC)

Questions from Committee Members and Responses:

01:02:26 Rep. Dudik
01:03:09 Beth McLaughlin, SC
01:03:12 Rep. Dudik
01:03:2 Beth McLaughlin, SC
01:03:28 Rep. Dudik
01:04:09 Kim Moog, DLI
01:04:22 Rep. Dudik
01:04:46 Kim Moog, DLI
01:04:56 Amy Sassano, OBPP
01:05:24 Rep. Dudik
01:05:38 Amy Sassano, OBPP
01:05:55 Rep. Holmlund
01:06:39 Amy Sassano, OBPP
01:06:51 Rep. Holmlund
01:07:09 Amy Sassano, OBPP
01:07:18 Rep. Holmlund
01:07:35 Amy Sassano, OBPP
01:07:57 Rep. Holmlund
01:08:18 Amy Sassano, OBPP
01:08:23 Rep. Holmlund
01:08:26 Amy Sassano, OBPP
01:08:35 Rep. Holmlund
01:08:39 Amy Sassano, OBPP
01:08:56 Rep. Holmlund
01:09:04 Amy Sassano, OBPP
01:09:20 Rep. Holmlund
01:09:38 Amy Sassano, OBPP
01:09:58 Rep. Glimm
01:10:28 Jeff Hagener, Director, FWP
01:10:51 Rep. Glimm
01:10:56 Jeff Hagener, Director, FWP
01:11:47 Chair Osmundson
01:11:5 Rep. Glimm
01:12:07 Jeff Hagener, Director, FWP
01:12:21 Rep. Glimm
01:12:54 Jeff Hagener, Director, FWP
01:13:12 Rep. Glimm

01:13:14 Jeff Hagener, Director, FWP
01:13:26 Rep. Glimm
01:13:40 Jeff Hagener, Director, FWP
01:14:06 Rep. Glimm
01:14:14 Jeff Hagener, Director, FWP
01:14:18 Rep. Glimm
01:14:2 Jeff Hagener, Director, FWP
01:14:42 Rep. Glimm
01:14:54 Jeff Hagener, Director, FWP
01:15:12 Rep. Glimm
01:15:24 Sue Daly, Administrator, Fish, Wildlife and Parks (FWP)
01:16:25 Rep. Glimm
01:16:30 Sue Daly, FWP

Closing by Sponsor:

01:16:53 Rep. Ballance

01:17:38 Rep. Ballance resumed chairmanship.

01:19:53 Recess
01:28:02 Reconvened

EXECUTIVE ACTION ON HB 123

01:28:51 **Motion/Vote:** Rep. Osmundson moved that **HB 123 DO PASS**. Motion carried 17-3 by voice vote with Rep. Noonan, Rep. Tropila and Rep. Woods voting no.

EXECUTIVE ACTION ON HB 354

01:28:15 Chair Ballance

01:30:00 **Motion:** Rep. Osmundson moved that **HB 354 DO PASS**.

01:30:11 **Motion:** Rep. Brodehl moved that **HB 354 BE AMENDED**.
[EXHIBIT\(aph32a02\)](#)

01:31:37 **Vote:** Motion carried 19-1 by voice vote with Rep. Woods voting no.

01:32:16 **Motion:** Rep. Osmundson moved that **HB 354 DO PASS AS AMENDED**.

Discussion:

01:32:25 Rep. Dudik
01:32:35 Rep. Brodehl
01:33:39 Rep. Dudik
01:33:44 Rep. Brodehl
01:33:57 Brett Dahl, Administrator, Risk Management and Tort Defense Division (RMTDD), Department of Administration (DOA)
01:34:16 Rep. Tschida

01:34:49 Rep. McCarthy

01:35:13 **Vote:** Motion carried unanimously by voice vote.

01:35:49 Rep. Tropila

01:37:23 Brett Dahl, DOA

01:37:46 Chair Ballance

01:38:28 Rep. Cuffe

01:38:49 Brett Dahl, DOA

01:39:16 Rep. Cuffe

01:39:20 Brett Dahl, DOA

01:39:28 Chair Ballance

01:39:46 Rep. Osmundson

01:40:30 Chair Ballance

01:40:42 Rep. Cuffe

01:41:00 Chair Ballance

ADJOURNMENT

01:41:30 Adjournment

Katya Grover, Secretary

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Additional Documents:

EXHIBIT([aph32aad.pdf](#))

MINUTES

MONTANA SENATE 64th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: Chair Dee Brown, on March 16, 2015 at 3:20 PM, in Room 335 Capitol

ROLL CALL

Members Present:

Sen. Dee Brown, Chair (R)
Sen. Roger Webb, Vice Chair (R)
Sen. Robyn Driscoll (D)
Sen. Jedediah Hinkle (R)
Sen. Douglas (Doug) Kary (R)
Sen. Sue Malek (D)
Sen. Lea Whitford (D)

Members Excused: None

Members Absent: None

Staff Present: Prudence Gildroy, Committee Secretary
Rachel Weiss, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 331, 3/6/2015; HB 288, 3/6/2015; HB 123, 3/6/2015; HB 101, 3/6/2015

HEARING ON HB 331

Opening Statement by Sponsor:

00:00:36 Rep. Nicholas Schwaderer (R), HD 14, opened the hearing on HB 331, Remove the term "half breed" from signage and geological features in Montana.

Proponents' Testimony:

00:03:10 Jasen Smith, Office of Indian Affairs

00:04:43 Shane Morigeau, Consolidated Salish and Kootenai Tribes (CSKT)

[EXHIBIT](#)(sts54a01)

Opponents' Testimony: None

Informational Testimony:

00:07:24 Gerry Daumiller, Montana State Library

[EXHIBIT](#)(sts54a02)

Questions from Committee Members and Responses:

00:08:11 Sen. Kary
00:08:43 Rep. Schwaderer
00:09:01 Sen. Kary
00:09:17 Mr. Daumiller
00:09:32 Sen. Kary
00:09:50 Sen. Hinkle
00:10:25 Mr. Daumiller
00:10:38 Sen. Hinkle
00:10:48 Mr. Daumiller
00:11:08 Rep. Schwaderer
00:12:53 Sen. Whitford
00:13:18 Mr. Daumiller
00:14:45 Sen. Whitford
00:14:56 Mr. Daumiller
00:15:23 Chair Brown
00:15:47 Mr. Daumiller
00:16:16 Chair Brown
00:16:29 Mr. Daumiller
00:16:46 Sen. Hinkle
00:17:08 Mr. Daumiller

Closing by Sponsor:

00:18:07 Rep. Schwaderer

HEARING ON HB 288

Opening Statement by Sponsor:

00:19:29 Rep. Tom Richmond (R), HD 56, opened the hearing on HB 288, Repeal law regarding transfer of information technology resources.

[EXHIBIT](#)(sts54a03)

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony:

00:23:16 Ron Baldwin, chief information officer, Information Technology Services Division, Department of Administration (DOA)

Questions from Committee Members and Responses:

00:23:51 Sen. Malek
00:24:29 Mr. Baldwin, DOA
00:25:23 Sen. Malek
00:25:38 Mr. Baldwin
00:26:32 Chair Jones
00:26:44 Mr. Baldwin
00:27:00 Chair Jones

Closing by Sponsor:

00:27:15 Rep. Richmond

HEARING ON HB 123

Opening Statement by Sponsor:

00:29:21 Rep. Donald Jones (R), HD 46, opened the hearing on HB 123, Generally revise public records laws.

Proponents' Testimony:

00:32:16 Shantil Siaperas, legislative analyst, Montana Association of Counties (MACo)
[EXHIBIT](#)(sts54a04)

00:37:34 John MacDonald, Montana Newspaper Association (MNA)
00:42:56 John Alke, corporate counsel, Northwestern Energy
00:46:08 Andrew Huff, chief legal counsel, Governor's Office (GOV)
[EXHIBIT](#)(sts54a05)

00:59:04 Aimee Grmoljez, MDU Resources

00:59:43 Joe DeFilippis, deputy, Records and Information Management Division,
Secretary of State
01:00:37 Kevin Nelson, Billings, representing himself

Opponents' Testimony: None

Informational Testimony:

01:05:10 Jodi Foley, Montana Historical Society (MHS)
01:05:40 Jennie Stapp, Montana State Librarian
01:06:01 Valerie Bashor, attorney, Department of Public Health and Human Services
(DPHHS)

Questions from Committee Members and Responses:

01:06:38 Sen. Driscoll
01:07:03 Rep. Jones
01:07:23 Sen. Driscoll
01:07:52 Rep. Jones
01:08:35 Chair Brown
01:08:57 Mr. Huff, GOV
01:13:46 Chair Brown
01:14:16 Mr. Huff
01:15:49 Sen. Malek
01:16:41 Ms. Foley, MHS
01:17:27 Sen. Malek
01:17:41 Ms. Foley
01:17:51 Sen. Malek
01:18:01 Ms. Bashor, DPHHS
01:18:46 Sen. Malek
01:18:56 Ms. Bashor
01:19:12 Sen. Malek
01:19:50 Rep. Jones
01:20:13 Chair Brown
01:20:24 Sen. Malek
01:20:29 Mr. MacDonald, MNA
01:21:15 Sen. Malek
01:21:27 Mr. MacDonald
01:22:17 Chair Brown
01:22:40 Mr. MacDonald
01:22:59 Sen. Malek
01:23:16 Mr. MacDonald
01:23:29 Sen. Malek
01:24:00 Mr. Huff
01:27:41 Sen. Malek
01:27:54 Mr. Huff
01:28:10 Sen. Whitford
01:28:56 Mr. Huff
01:29:42 Chair Brown
01:29:51 Mr. Huff

01:30:05 Sen. Hinkle
01:30:52 Mr. Huff
01:31:59 Sen. Hinkle
01:33:12 Rep. Jones
01:36:22 Sen. Hinkle
01:36:57 Rep. Jones

Closing by Sponsor:

01:37:21 Rep. Jones

HEARING ON HB 101

Opening Statement by Sponsor:

01:42:51 Rep. Tom Steenberg (D), HD 99, opened the hearing on HB 101, Generally revise administrative laws of the MPERA retirement systems.

Proponents' Testimony:

01:44:43 Melanie Symons, chief legal counsel, Montana Public Employee Retirement Administration (MPERA)

[EXHIBIT](#)(sts54a06)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:48:49 Sen. Hinkle
01:49:29 Ms. Symons (MPERA)
01:51:15 Sen. Hinkle
01:51:38 Ms. Symons
01:51:58 Sen. Webb
01:52:26 Ms. Symons

Closing by Sponsor:

01:53:31 Rep. Steenberg

ADJOURNMENT

Adjournment: 5:15 p.m.

Prudence Gildroy, Secretary

pg

Additional Documents:

EXHIBIT([sts54aad.pdf](#))

Concerns with HB 123, Generally revise Public Records Laws

Exhibit No. 4

Submitted by the Montana Association of Counties

Date

3-16-15

Bill No.

48123

Page 6, New Section 8, Lines 11-20—Inconsistent Language & Significant Policy Change: Respectfully request**that the original language be restored**

NOTE: The inconsistencies are highlighted in green and the policy change is highlighted in yellow

NEW SECTION. **Section 8. Written notice of denial -- civil action -- costs to plaintiff PREVAILING PARTY in certain actions to enforce constitutional OR STATUTORY rights.** (1) A public agency that denies an information request to release information or records shall provide a written explanation for the denial.

(2) If a person who makes an information request receives a denial from a public agency and believes that the denial violates the provisions of this chapter, the person may file a complaint pursuant to the Montana Rules of Civil Procedure in district court.

(3) A plaintiff PERSON WHOSE ORIGINAL INFORMATION REQUEST WAS DENIED who prevails in an action brought in district court to enforce the plaintiff's PERSON's rights under Article II, section 9, of the Montana constitution OR UNDER THE PROVISIONS OF [SECTIONS 1 THROUGH 24] may MUST be awarded costs and reasonable attorney fees.

Page 21, Section 30, Lines 26-30—Inconsistent Language & Significant Policy Change: Respectfully request that the original language be restored

NOTE: The inconsistencies are highlighted in green and the policy change is highlighted in yellow

SECTION 30. SECTION 2-3-221, MCA, IS AMENDED TO READ:

"2-3-221. Costs to plaintiff prevailing party in certain actions to enforce constitutional right to know. A plaintiff person who alleges a violation and who prevails in an action brought in district court to enforce the plaintiff's rights under Article II, section 9, of the Montana constitution may must be awarded costs and reasonable attorney fees."

Page 21, Section 29, Lines 22-24: Suggestion for Cleanup

SECTION 29. SECTION 2-3-212, MCA, IS AMENDED TO READ:

"2-3-212. Minutes of meetings -- public inspection. (1) Appropriate minutes of all meetings required by 2-3-203 to be open must be kept and must be available for inspection by the public. If an audio recording of a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an official recording is made, a written record of the meeting must also be made and must include the information specified in subsection (2).

(2) Minutes must include without limitation:

(a) the date, time, and place of the meeting;

(b) a list of the individual members of the public body, agency, or organization who were in attendance;

(c) the substance of all matters proposed, discussed, or decided; and

(d) at the request of any member, a record of votes by individual members for any votes taken.

(3) If the minutes are recorded and designated as the official record, a log or time stamp for each main agenda item is required for the purpose of providing assistance to the public in accessing that portion of the meeting.

(4) Any time a presiding officer closes a public meeting pursuant to 2-3-203, the presiding officer shall ensure that ~~accurate and appropriate~~ minutes TAKEN IN COMPLIANCE WITH SUBSECTION (2) ABOVE are kept of the closed portion of the meeting. The minutes from the closed portion of the meeting may not be made available for inspection except pursuant to a court order."

Governor's Amendments to HB 123

March 16, 2015

Bill requested by Rep. D. Jones

Section 2. Definitions

1 "Confidential information" means information that is accorded confidential status or is prohibited from disclosure as provided by the constitution or statute, or through judicial decisions, findings, or orders, including but not limited to:

- (a) Information that is constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure;
- (b) Information related to judicial deliberations in adversarial proceedings; and
- (c) Information necessary to maintain the security and integrity of secure facilities or information systems owned by or serving the State.

2 "Constitutional officer records" are the public records of Constitutional officers.

3 "Person" or "persons" as used in [new sections 1 through 24] means citizens of the State of Montana.

4 "Public agency" means THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF MONTANA STATE GOVERNMENT, INCLUDING any political subdivision~~S~~, ~~including a municipality, county, school district,~~ LOCAL GOVERNMENTS, and any agency, ~~or department,~~ BOARD, COMMISSION, OFFICE, BUREAU, DIVISION, OR OTHER PUBLIC AUTHORITY of the EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCHES OF THE state of Montana.

"Public information" means information, ~~regardless of physical form or characteristics, relating to the conduct of the public's business and prepared, owned, used, or retained by any public agency~~ PREPARED, OWNED, USED, OR RETAINED BY ANY PUBLIC AGENCY RELATING TO THE TRANSACTION OF OFFICIAL BUSINESS, REGARDLESS OF FORM, EXCEPT FOR CONFIDENTIAL INFORMATION THAT MUST BE PROTECTED AGAINST PUBLIC DISCLOSURE UNDER APPLICABLE LAW, INCLUDING WHERE INDIVIDUAL PRIVACY OUTWEIGHS THE PUBLIC'S RIGHT TO KNOW.

NEW SECTION. Section 4. Public information requests -- fees. (1) A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons.

(2) Upon receiving a request for public information, a public agency shall respond in a timely manner to the requesting person ~~with an estimate of the time it will take to fulfill the request and any fees that may be charged pursuant to subsection (3)~~ BY:

(A) MAKING THE PUBLIC INFORMATION MAINTAINED BY THE PUBLIC AGENCY AVAILABLE FOR INSPECTION AND COPYING BY THE REQUESTING PERSON; OR

(B) PROVIDING THE REQUESTING PERSON WITH AN ESTIMATE OF THE TIME IT WILL TAKE TO FULFILL THE REQUEST IF THE PUBLIC INFORMATION CANNOT BE READILY IDENTIFIED AND GATHERED AND ANY FEES THAT MAY BE CHARGED PURSUANT TO SUBSECTION (3).

(3) A public agency may charge a fee for fulfilling a public information request. ~~The~~ EXCEPT WHERE A FEE IS OTHERWISE PROVIDED FOR BY LAW, THE fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible. The fee must be documented. The fee may include the time required to gather public information. THE PUBLIC AGENCY MAY REQUIRE THE REQUESTING PERSON TO PAY THE ESTIMATED FEE PRIOR TO IDENTIFYING AND GATHERING THE REQUESTED PUBLIC INFORMATION.

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(4) A PUBLIC AGENCY IS NOT REQUIRED TO:

(A) ALTER OR CUSTOMIZE PUBLIC INFORMATION TO PROVIDE IT IN A FORM SPECIFIED TO MEET THE NEEDS OF THE REQUESTING PERSON; OR

(B) CREATE AN ABSTRACT OR SUMMARY OF PUBLIC INFORMATION WHERE NONE CURRENTLY EXISTS.

(5) IF A PUBLIC AGENCY AGREES TO A REQUEST TO CUSTOMIZE A RECORDS REQUEST RESPONSE, THE COSTS OF THE CUSTOMIZATION MAY BE INCLUDED IN FEES CHARGED TO THE REQUESTER.

(6)(4) (A) THE SECRETARY OF STATE IS AUTHORIZED TO CHARGE FEES UNDER THIS SECTION. THE FEES MUST BE SET AND DEPOSITED IN ACCORDANCE WITH 2-15-405. THE FEES MUST BE COLLECTED IN ADVANCE.

(B) THE SECRETARY OF STATE MAY NOT CHARGE A FEE TO A MEMBER OF THE LEGISLATURE OR PUBLIC OFFICER FOR ANY SEARCH RELATIVE TO MATTERS PERTAINING TO THE DUTIES OF THE MEMBER'S OFFICE OR FOR A CERTIFIED COPY

OF ANY LAW OR RESOLUTION PASSED BY THE LEGISLATURE RELATIVE TO THE MEMBER'S OFFICIAL DUTIES.

NEW SECTION. Section 8. Written notice of denial -- civil action -- costs to plaintiff PREVAILING PARTY in certain actions to enforce constitutional OR STATUTORY

rights. (1) A public agency that denies an information request to release information or records shall provide a written explanation for the denial.

(2) If a person who makes an information request receives a denial from a public agency and believes that the denial violates the provisions of this chapter, the person may file a complaint pursuant to the Montana Rules of Civil Procedure in district court.

(3) A plaintiff PERSON WHOSE ORIGINAL INFORMATION REQUEST WAS DENIED ALLEGING A DEPRIVATION OF RIGHTS who prevails in an action brought in district court to enforce the plaintiff's PERSON'S rights under Article II, section 9, of the Montana constitution OR UNDER THE PROVISIONS OF [SECTIONS 1 THROUGH 24] may MUST MAY be awarded costs and reasonable attorney fees.

NEW SECTION. Section 15. State records committee -- composition and meetings. (1)

There is a state records committee composed of:

(a) representatives of:

(i) the department of administration;

(ii) the legislative auditor;

(iii) the attorney general;

(iv) the secretary of state;

(v) the Montana historical society;

(vi) the clerk of the supreme court; and

(vii) the state chief information officer; and

(VIII) THE GOVERNOR; AND

(b) five members representing executive branch agencies designated pursuant to subsections (4) and (5).

(2) The state records committee is administered by the secretary of state, and the secretary of state's representative serves as the presiding officer for the committee.

(3) The committee members representing the agencies in subsection (1)(a) are designated by the heads of the respective agencies, and their appointments must be submitted in writing to the secretary of state. These committee members serve at the pleasure of the heads of their respective agencies.

(4) To implement subsection (1)(b), the committee members in subsection (1)(a) shall develop a rotation by which each of the executive branch agencies is designated to select a

representative to serve a 2-year term as a committee member. The secretary of state shall adopt the rotation by administrative rule.

(5) The committee shall establish guidelines for the heads of executive branch agencies in appointing representatives to ensure the executive branch representatives provide a balance of perspectives from records management, information technology, and legal professionals.

(6) The committee shall meet at least quarterly.

(7) Committee members shall serve without additional salary but are entitled to reimbursement for travel expenses incurred while engaged in committee activities as provided for in 2-18-501 through 2-18-503. Expenses must be paid from the appropriations made for operation of their respective agencies.

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NEW SECTION. Section 16. State records committee duties and responsibilities. The purpose of the state records committee is to act as a resource for ~~executive branch~~ **PUBLIC** agencies and others by staying at the forefront of records management best practices. The committee shall:

- (1) gather and disseminate information on all phases of records management;
- (2) advise the secretary of state in developing records management standards, guidelines, and training materials;
- (3) develop guidelines to help agencies identify, maintain, and secure their essential records;
- (4) serve as a forum for continuing collaboration among records management, information technology, and legal professionals throughout state agencies;
- (5) make recommendations to the secretary of state for rulemaking regarding public records management;
- (6) regularly review existing public records laws and make recommendations to the secretary of state regarding pursuing statutory change; and
- (7) report biennially to the governor and, as provided in 5-11-210, the legislature on the activities of the committee, improvements in records management in state government, aspects of records management requiring further improvement, and committee recommendations and plans for further improvement.

NEW SECTION. Section 17. Retention and disposition subcommittee -- approval required for record disposal. (1) There is a subcommittee of the state records committee to be known as the retention and disposition subcommittee. The subcommittee is composed of the members of the state records committee who represent the following offices:

- (a) the department of administration;
- (b) the legislative auditor;
- (c) the attorney general;
- (d) the secretary of state; **and**
- (e) the Montana historical society; **AND** -

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(F) THE GOVERNOR.

(2) The subcommittee shall approve, modify, or disapprove the recommendations on retention schedules of all public records.

(3) Except as provided in subsection (4), no public record may be disposed of or destroyed without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction must be submitted to the subcommittee by the agency concerned.

(4) The subcommittee may by unanimous approval establish categories of records for which no disposal request is required if those records are retained for the designated retention period.

NEW SECTION. Section 20. Permanent records -- agency responsibilities -- state records center. (1) All permanent records no longer required in the current operation of the office where they are made or kept and all records of each agency or activity **of the executive branch of state government** that has been abolished or discontinued must be maintained by the agency or transferred to the state records center in accordance with approved records retention schedules.

(2) When records are transferred to the state records center, the transferring agency does not lose its rights of control and access. The state records center is merely a custodian of the agency records, and access is only by agency approval. Agency records for which the state records center acts as custodian may not be subpoenaed from the state records center but must be subpoenaed from the agency to which the records belong. The state records center may charge fees to cover the cost of records storage and servicing.

(3) Prior to transferring a permanent record to the state records center, the transferring agency shall consult with the state archivist to determine whether the record is also a historic record. If the record is found to be a historic record, it must be transferred to the Montana historical society in accordance with the provisions of [section 18].

NEW SECTION. Section 21. Agency records management duties. Each **department** **PUBLIC AGENCY** head shall administer **the executive branch agency's** records management function **OF THE AGENCY** and shall:

(1) coordinate all aspects of the agency records management function in accordance with procedures prescribed by the secretary of state and the state records committee;

(2) analyze records inventory data and examine and compare all inventories within the agency to minimize duplication of records;

(3) review and approve records disposal requests for submission to the retention and disposition subcommittee;

(4) review established records retention schedules to ensure they are complete and current and make recommendations to the secretary of state and the state records committee regarding minimal retentions for all copies of public records within the agency;

(5) incorporate records management requirements into the agency information technology plan provided for in 2-17-523;

(6) ensure that all agency employees receive appropriate and ongoing records management training; and

(7) after considering guidance from the state records committee regarding records manager qualifications, officially designate a qualified agency records manager to manage the functions provided for in this section.

NEW SECTION. Section 27. Notification of breach of security of data system. (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person.

(b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.

(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system to perform a state agency function shall:

(i) notify the state agency immediately following discovery of the breach if the personal information is reasonably believed to have been acquired by an unauthorized person; and

(ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as part of the breach. This notification must be provided in the same manner as the notification required in subsection (1).

(b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation.

(4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain:

(a) an information security policy designed to safeguard personal information; and

(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).

(5) A STATE AGENCY OR THIRD PARTY THAT IS REQUIRED TO ISSUE A NOTIFICATION PURSUANT TO THIS SECTION SHALL SIMULTANEOUSLY SUBMIT AN ELECTRONIC COPY OF THE NOTIFICATION AND A STATEMENT PROVIDING

THE DATE AND METHOD OF DISTRIBUTION OF THE NOTIFICATION TO THE STATE CHIEF INFORMATION OFFICER IN THE DEPARTMENT OF ADMINISTRATION, EXCLUDING ANY INFORMATION THAT PERSONALLY IDENTIFIES ANY INDIVIDUAL WHO IS ENTITLED TO RECEIVE NOTIFICATION. IF A NOTIFICATION IS MADE TO MORE THAN ONE INDIVIDUAL, A SINGLE COPY OF THE NOTIFICATION MUST BE SUBMITTED THAT INDICATES THE NUMBER OF INDIVIDUALS IN THE STATE WHO RECEIVED NOTIFICATION.

SECTION 30. SECTION 2-3-221, MCA, IS AMENDED TO READ:

2-3-221. Costs to plaintiff prevailing party in certain actions to enforce constitutional right to know. A plaintiff person ~~who alleges a violation and~~ **ALLEGING A DEPRIVATION OF RIGHTS** who prevails in an action brought in district court to enforce ~~the plaintiffs~~ **PERSON'S** rights under Article II, section 9, of the Montana constitution ~~may~~ **must MAY** be awarded costs and reasonable attorney fees.

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MINUTES

MONTANA SENATE 64th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: Chair Dee Brown, on April 1, 2015 at 11:30 A.M., in Room 350 Capitol

ROLL CALL

Members Present:

Sen. Dee Brown, Chair (R)
Sen. Robyn Driscoll (D)
Sen. Jedediah Hinkle (R)
Sen. Douglas (Doug) Kary (R)
Sen. Sue Malek (D)
Sen. Lea Whitford (D)

Members Excused: Sen. Roger Webb, Vice Chair (R)

Members Absent: None

Staff Present: Nadine Spencer, Committee Secretary
Rachel Weiss, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Executive Action: HB 123, Be Concurred In As Amended

00:00:31 Chair Brown

EXECUTIVE ACTION ON HB 123

00:00:46 **Motion:** Sen. Kary moved that **HB 123 BE CONCURRED IN.**

Discussion:

00:00:53 Chair Brown

00:01:09 Laura Sankey, staff attorney, Legislative Services Division (LSD)

00:03:31 Chair Brown

00:03:44 Ms. Sankey, LSD

00:03:52 Rachel Weiss, research analyst, LSD

00:04:18 **Motion:** Sen. Driscoll moved that **HB 123 BE AMENDED.**

EXHIBIT(sts68a01)

Discussion:

00:04:26 Chair Brown

00:04:46 Ms. Sankey

00:05:18 Chair Brown

00:05:29 Ms. Sankey

00:06:21 Chair Brown

00:06:36 Ms. Sankey

00:07:14 Chair Brown

00:07:18 Ms. Sankey

00:07:30 Chair Brown

00:07:38 Ms. Weiss, LSD

00:08:51 **Vote:** Motion carried unanimously by voice vote. Sen. Webb voted by proxy.

00:09:12 Chair Brown

00:09:18 **Motion:** Sen. Kary moved that **HB 123 BE CONCURRED IN AS AMENDED.**

00:09:51 **Motion:** Sen. Driscoll moved that **HB 123 BE AMENDED.**

EXHIBIT(sts68a02)

Discussion:

00:09:59 Chair Brown

00:10:27 Ms. Weiss

00:10:44 **Vote:** Motion carried unanimously by voice vote. Sen. Webb voted by proxy.

00:11:04 **Motion:** Sen. Kary moved that **HB 123 BE CONCURRED IN AS AMENDED.**

Discussion:

00:11:22 Sen. Whitford
00:11:49 Chair Brown
00:12:09 Sen. Whitford
00:12:42 Chair Brown
00:13:33 Sen. Whitford
00:13:43 Chair Brown
00:13:48 Ms. Sankey
00:14:08 Sen. Malek
00:14:22 Chair Brown
00:14:40 Ms. Weiss
00:15:01 Chair Brown
00:15:07 Ms. Weiss

00:15:21 **Vote:** Motion carried unanimously by voice vote. Sen. Webb voted by proxy.
Sen. Facey will carry the bill.

00:15:44 Chair Brown

EXHIBIT(sts68a03)

00:16:38 Sen. Driscoll
00:16:43 Chair Brown

ADJOURNMENT

Adjournment: 11:50 A.M.

Nadine Spencer, Secretary

ns

Additional Documents:

EXHIBIT([sts68aad.pdf](#))

Exhibit No. 1
Date 4-1-2015
Bill No. HB 123

Amendments to House Bill No. 123
3rd Reading Copy

Requested by Representative Donald Jones

For the Senate State Administration Committee

Prepared by Laura Sankey
April 1, 2015 (11:01am)

1. Page 2, following line 5.

Insert: "(1) "Confidential information" means information that is accorded confidential status or is prohibited from disclosure as provided by applicable law. The term includes information that is:

(a) constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure;

(b) related to judicial deliberations in adversarial proceedings;

(c) necessary to maintain the security and integrity of secure facilities or information systems owned by or serving the state; and

(d) designated as confidential by statute or through judicial decisions, findings, or orders."

Renumber: subsequent subsections

2. Page 2, following line 8.

Insert: "(3) "Constitutional officer record" means a public record prepared, owned, used, or retained by a constitutional officer."

Renumber: subsequent subsections

3. Page 2, line 23 through line 24.

Strike: "any political" on line 23 through "Montana" on line 24

Insert: "the executive, legislative, and judicial branches of Montana state government, a political subdivision of the state, a local government, and any agency, department, board, commission, office, bureau, division, or other public authority of the executive, legislative, or judicial branch of the state of Montana"

4. Page 4, following line 17.

Insert: "(4) A public agency is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.

(5) If a public agency agrees to a request to customize a records request response, the costs of the customization may be included in the fees charged by the agency."

Renumber: subsequent subsection

5. Page 5, line 20.

Strike: "may seek assistance from"

Insert: "shall cooperate with"

6. Page 5, line 21.

Strike: "regarding"

Insert: "in the"

7. Page 5, line 22.

Following: "plan"

Insert: "using [sections 13 through 21] as guidance"

8. Page 6, line 17.

Strike: "WHOSE" through "DENIED"

Insert: "alleging a deprivation of rights"

9. Page 6, line 19.

Strike: "MUST"

Insert: "may"

10. Page 11, following line 5.

Insert: "(vi) the governor;"

Renumber: subsequent subsections

11. Page 20, following line 3.

Insert: "(5) A state agency or a third party that is required to issue a notification to an individual pursuant to this section shall simultaneously submit to the state's chief information officer at the department of administration an electronic copy of the notification and a statement providing the date and method of distribution of the notification. The electronic copy and statement of notification must exclude any information that identifies the person who is entitled to receive notification. If a notification is made to more than one person, a single copy of the notification that includes the number of people who were notified must be submitted to the chief information officer."

12. Page 21, line 23.

Strike: "accurate and appropriate minutes"

Insert: "minutes taken in compliance with subsection (2)"

13. Page 21, line 28.

Strike: "who alleges a violation and"

Insert: "alleging a deprivation of rights"

14. Page 21, line 29.

Strike: "plaintiff's"

Insert: "person's"

Strike: "must"

Insert: "may"

15. Page 23, line 27.

Following: "confidential"

Insert: "information as defined in [section 2]"

16. Page 23, line 28.

Strike: "under [section 3]"

17. Page 25, line 16.

Following: "confidential"

Insert: "information as defined in [section 2]"

18. Page 25, line 17.

Strike: "under [section 3]"

19. Page 28, line 8 through line 9.

Strike: "exempt" on line 28 through "[section 3]" on line 9

Insert: "confidential information as defined in [section 2]"

20. Page 29, line 5 through line 6.

Strike: "exempt" on line 5 through "any other" on line 6

Insert: "confidential information as defined in [section 2] and
is exempt from any"

21. Page 35, line 22.

Following: "information"

Strike: "may not be considered a public record"

Insert: "is confidential information as defined in [section 2]"

22. Page 35, line 23.

Strike: "under [section 3]"

23. Page 40, line 3.

Following: "~~chapter 6~~"

Insert: ", are confidential information as defined in [section 2],"

24. Page 42, line 12 through line 13.

Strike: "under" on line 12 through "[section 3]" on line 13

25. Page 44, line 27.

Insert: "COORDINATION SECTION. Section 61. Coordination instruction. If both House Bill No. 74 and [this act] are passed and approved, then [section 25 of this act] must be amended as follows:

"NEW SECTION. Section 25. Definitions. As used in [sections 25 through 27], the following definitions apply:

(1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of computerized data that:

(a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of a state agency; and

(b) causes or is reasonably believed to cause loss or injury to a person.

(2) "Individual" means a human being.

(3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character.

(4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and data elements are not encrypted:

(i) a social security number ~~or tax identification number;~~

(ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; ~~or~~

(iii) an account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to a person's financial account;

(iv) medical record information as defined in 33-19-104;

(v) a taxpayer identification number; or
(vi) an identity protection personal identification number
issued by the United States internal revenue service.

(b) The term does not include publicly available information from federal, state, local, or tribal government records.

(5) "Redaction" means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.

(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.

(b) The term does not include an entity of the judicial branch.

(7) "Third party" means:

(a) a person with a contractual obligation to perform a function for a state agency; or

(b) a state agency with a contractual or other obligation to perform a function for another state agency."

Insert: "COORDINATION SECTION. Section 62. Coordination

instruction. If both House Bill No. 74 and [this act] are passed and approved, then [section 27 of this act] must be amended as follows:

"NEW SECTION. Section 27. Notification of breach of security of data system. (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person.

(b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.

(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system to perform a state agency function shall:

(i) notify the state agency immediately following discovery of the breach if the personal information is reasonably believed to have been acquired by an unauthorized person; and

(ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an

unauthorized person as part of the breach. This notification must be provided in the same manner as the notification required in subsection (1).

(b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation.

(4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain:

(a) an information security policy designed to safeguard personal information; and

(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).

(5) A state agency or third party that is required to issue a notification to an individual pursuant to this section shall simultaneously submit to the state's chief information officer at the department of administration and to the attorney general's consumer protection office an electronic copy of the notification and a statement providing the date and method of distribution of the notification. The electronic copy and statement of notification must exclude any information that identifies the person who is entitled to receive notification. If a notification is made to more than one person, a single copy of the notification that includes the number of people who were notified must be submitted to the chief information officer and the consumer protection office."

Insert: "COORDINATION SECTION. Section 63. Coordination instruction. If both House Bill No. 448 and [this act] are passed and approved and if both contain a section that amends 2-3-221, then House Bill No. 448 is void."

Renumber: subsequent section

- END -

STATE ADMINISTRATION

Exhibit No. 2
Date 4-1-2015
Bill No. HB 123

Amendments to House Bill No. 123
3rd Reading Copy

Requested by Representative Donald Jones

For the Senate State Administration Committee

Prepared by Laura Sankey
April 1, 2015 (10:40am)

1. Page 44, following line 26.

Insert: "COORDINATION SECTION. Section 61. Coordination

instruction. If both House Bill No. 28 and [this act] are passed and approved, then the reference in House Bill No. 28 to "2-6-102, 2-6-110" in [section 1(1)(a)] must be changed to "[sections 3 through 5 of House Bill No. 123]"."

Insert: "COORDINATION SECTION. Section 62. Coordination

instruction. If both House Bill No. 608 and [this act] are passed and approved, then the reference in House Bill No. 608 to "2-6-102" in [section 6(3)] must be changed to "[section 3 of House Bill No. 123]"."

Insert: "COORDINATION SECTION. Section 63. Coordination

instruction. If both Senate Bill No. 399 and [this act] are passed and approved, then the reference in Senate Bill No. 399 to "2-6-102 and 2-6-104" in [section 13] must be changed to [section 3 of House Bill No. 123]"."

Insert: "COORDINATION SECTION. Section 64. Coordination

instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 8(1) of House Bill No. 119] must be amended as follows:

"(1) Information provided or developed under [sections 1 through 9] for an own risk and solvency assessment or ORSA summary report and in the possession of or control of the commissioner or any other person under [sections 1 through 9] is recognized as proprietary and containing trade secrets. The information is confidential by law information as provided in [section 2 of House Bill No. 123] and privileged, is not admissible ~~as in~~ evidence in any civil action, and is not subject to subpoena, discovery, ~~the provisions of 2-6-102,~~ or the provisions of the Freedom of Information Act, 5 U.S.C. 552.""

Insert: "COORDINATION SECTION. Section 65. Coordination

instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 8(8) of House Bill No. 119] must be amended as follows:

"(8) Information in the possession of or control of the NAIC or a third-party consultant pursuant to [sections 1 through 9] is

confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, is not admissible in evidence in any private civil action, and is not subject to ~~2-6-102~~, subpoena, or discovery.""

Insert: "COORDINATION SECTION. Section 66. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 15(1) of House Bill No. 119] must be amended as follows:

"(1) Except as provided in subsection (9), a company's confidential information is confidential information as provided in [section 2 of House Bill No. 123] ~~confidential~~ and privileged, ~~and is not subject to subpoena, or discovery, or public information requests under 2-6-102 or~~ and is not admissible in evidence in any private civil action.""

Insert: "COORDINATION SECTION. Section 67. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 31(1) of House Bill No. 119], amending 33-2-116(1), must be amended as follows:

"(1) Documents, materials, and other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to 33-2-1115 and all information reported pursuant to 33-2-1104(3)(1), 33-2-1104(3)(m), 33-2-1111, and 33-2-1113 ~~must be~~ are confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, are not subject to ~~2-6-102~~, subpoena, or discovery, and are not admissible in evidence in any private civil action. The commissioner is authorized to use the documents, materials, and other information to further any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner may not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which the documents, materials, or other information pertains unless the commissioner, after giving notice and an opportunity to be heard to the insurer and the insurer's affiliates who would be affected, determines that the interest of policyholders, shareholders, or the public would be served by the publication. On a determination that the interest of policyholders, shareholders, or the public would be served, the commissioner may publish all or any part of the documents, materials, or other information in a manner that the commissioner considers appropriate.""

"COORDINATION SECTION. Section 68. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 31(7) of House Bill No. 119], amending 33-2-1116(7), must be amended as follows:

"(7) Documents, materials, and other information in the possession or control of the NAIC pursuant to [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section are confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, are not admissible in evidence in a private civil action, and are not subject to ~~2-6-102~~, subpoena, or discovery.""

Renumber: subsequent section

- END -

MINUTES

MONTANA SENATE 64th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: Chair Llew Jones, on April 13, 2015 at 9:00 A.M., in Room 317 Capitol

ROLL CALL

Members Present:

Sen. Llew Jones, Chair (R)
Sen. Bob Keenan, Vice Chair (R)
Sen. Mark Blasdel (R)
Sen. John Brenden (R)
Sen. Mary Caferro (D) (arrived after roll call)
Sen. Bradley Hamlett (D)
Sen. Kris Hansen (R)
Sen. David Howard (R)
Sen. Jim Keane (D)
Sen. Frederick (Eric) Moore (R)
Sen. Mike Phillips (D)
Sen. Rick Ripley (R)
Sen. Matthew M. Rosendale Sr (R)
Sen. Jon C. Sesso (D) (arrived after roll call)
Sen. Cary Smith (R)
Sen. Janna Taylor (R)
Sen. Roger Webb (R)
Sen. Cynthia Wolken (D)

Members Excused:

Sen. Jonathan Windy Boy (D)

Members Absent: None

Staff Present: Prudence Gildroy, Committee Secretary
Julie Johnson, Legislative Branch
Jon Moe, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 10, 4/8/2015; HB 115, 4/8/2015; HB 123, 4/8/2015; HB 403, 4/8/2015; HB 512, 4/8/2015

HEARING ON HB 10

Opening Statement by Sponsor:

00:02:08 Rep. Kelly McCarthy (D), HD 49, opened the hearing on HB 10, Long-Range Information Technology Appropriations.

[EXHIBIT\(fcs74a01\)](#)

[EXHIBIT\(fcs74a02\)](#)

Proponents' Testimony:

00:08:26 Ron Baldwin, chief information officer, Department of Administration (DOA)

00:08:51 Sen. Caferro and Sen. Sesso joined the meeting.

00:10:41 Lynne Pizzini, DOA

00:12:29 John Dougherty, chief information officer, Department of Corrections (COR)

00:13:04 Beth McLaughlin, administrator, Montana Supreme Court (MSC)

[EXHIBIT\(fcs74a03\)](#)

00:14:50 Tom Butler, Montana Highway Patrol (MHP)

[EXHIBIT\(fcs74a04\)](#)

00:17:03 Harold Blattie, Montana Association of Counties (MACo)

[EXHIBIT\(fcs74a05\)](#)

00:19:57 Jim Smith, Montana Sheriffs and Peace Officers Association (MSPOA)

00:20:19 Joe Chapman, chief information officer, Department of Justice (DOJ)

00:21:11 Mike Bousliman, Department of Transportation (MDT)

00:21:42 Mike McGinley, commissioner, Beaverhead County Commission (BCC)

00:23:59 David Schulz, commissioner, Madison County Commission (MCC)

Opponents' Testimony:

00:24:19 Linda Stoll, Missoula County and Verizon customer representing herself

00:27:43 Geoff Feiss, general manager, Montana Telecommunications Association (MTA)

00:30:39 Bonnie Lorang, Montana Independent Telecommunications Systems (MITS)

[EXHIBIT\(fcs74a06\)](#)

[EXHIBIT\(fcs74a07\)](#)

[EXHIBIT\(fcs74a08\)](#)

00:33:12 Susan Bomstad, Montana Chapter of the International Association of Public Safety Communications Officials (APCO)

00:36:01 John MacDonald, City of Missoula

00:36:31 Margaret Morgan, MITS

Informational Testimony:

00:37:14 Cathy Duncan, Legislative Fiscal Division (LFD)

Questions from Committee Members and Responses:

00:39:18 Sen. Hansen
00:39:50 Mr. Butler, MHP
00:40:51 Sen. Hansen
00:41:13 Mr. Blattie, MACo)
00:42:19 Sen. Hansen
00:42:55 Mr. Blattie
00:44:07 Sen. Hansen
00:44:27 Mr. Feiss, MTA
00:44:36 Sen. Wolken
00:45:20 Mr. Blattie
00:46:52 Sen. Wolken
00:47:26 Mr. Blattie
00:47:45 Sen. Webb
00:48:01 Mr. Butler
00:48:19 Sen. Webb
00:48:25 Mr. Butler
00:48:45 Sen. Phillips
00:48:59 Rep. McCarthy
00:51:31 Sen. Phillips
00:52:45 Rep. McCarthy
00:53:08 Sen. Sesso
00:54:25 Rep. McCarthy
00:55:51 Sen. Sesso
00:55:58 Rep. McCarthy
00:56:19 Sen. Sesso
00:57:02 Mr. Baldwin, DOA
00:57:44 Sen. Sesso
00:58:38 Mr. Baldwin
00:59:18 Sen. Sesso
00:59:55 Mr. Butler
01:01:04 Sen. Sesso
01:03:01 Mr. Butler

Closing by Sponsor:

01:06:16 Rep. McCarthy

HEARING ON HB 115

Opening Statement by Sponsor:

01:10:05 Rep. Moffie Funk (D), HD 82, opened the hearing on HB 115, Generally revise board of nursing laws.

[EXHIBIT\(fcs74a09\)](#)

Proponents' Testimony:

01:12:15 Judy Bovington, Department of Labor and Industry (DLI)

01:12:50 Vicky Byrd, Montana Nurses Association (MTNA)
01:13:35 Cynthia Gustafson, Montana Board of Nursing (MTBN)
01:14:22 Casey Blumenthal, Montana Hospital Association (MHA)

Opponents' Testimony: None

Informational Testimony:

01:15:42 Eleanor Cooperider, Department of Justice (DOJ)

Questions from Committee Members and Responses:

01:17:10 Sen. Howard
01:17:28 Ms. Byrd, MTNA
01:18:57 Sen. Howard
01:19:02 Ms. Byrd

Closing by Sponsor:

01:19:18 Rep. Funk

HEARING ON HB 123

Opening Statement by Sponsor:

01:20:48 Rep. Donald Jones (R), HD 46, opened the hearing on HB 123, Generally revise public records laws.

Proponents' Testimony:

01:21:56 Jorge Quintana, chief legal, Office of the Secretary of State (SOS)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:22:33 Sen. Hansen
01:23:17 Rep. Jones
01:23:43 Sen. Hansen
01:23:53 Rep. Jones
01:24:13 Sen. Moore
01:24:25 Rep. Hansen

Closing by Sponsor:

01:24:44 Rep. Jones

HEARING ON HB 403

Opening Statement by Sponsor:

01:25:32 Rep. Dave Hagstrom (R), HD 52, opened the hearing on HB 403, Provide for long range building appropriations.

[EXHIBIT\(fcs74a10\)](#)

Proponents' Testimony:

01:28:11 Chuck Denowh, United Property Owners of Montana (UPOM)

01:30:45 Marilyn Ross, representing herself

01:33:01 David Schulz, commissioner, Madison County Commission (MCC)

01:35:47 Bill Howell, Montana Heritage Commission (MHC)

Opponents' Testimony:

01:36:53 Jeff Hagener, director, Department of Fish, Wildlife and Parks (FWP)

[EXHIBIT\(fcs74a11\)](#)

[EXHIBIT\(fcs74a12\)](#)

01:40:08 Joe Cohenour, Rocky Mountain Elk Foundation (MEF)

[EXHIBIT\(fcs74a13\)](#)

01:42:16 George Golie, Montana Wildlife Federation (MWF)

01:45:40 Bill Geer, Hellgate Hunters and Anglers

[EXHIBIT\(fcs74a14\)](#)

01:47:25 Bob Gilbert, Walleyes Unlimited of Montana (WUM)

01:48:46 Jim Posewitz, Helena Hunters and Anglers Association (HHAA)

[EXHIBIT\(fcs74a15\)](#)

01:50:50 Gayle Joslin, HHAA

01:52:29 Jay Gore, Big Sky Upland Bird Association

[EXHIBIT\(fcs74a16\)](#)

01:53:02 Robert Sanders, Ducks Unlimited

01:53:21 Dan Bailey, Pheasants Forever

01:53:41 Craig Roberts, Upland Game Bird Council

01:54:06 Tim Aldrich, self

01:54:16 Jean Johnson, Montana Outfitters and Guides Association (MOGA)

01:54:47 Brian Ohs, Montana Trout Unlimited

01:55:15 Amy Seaman, Montana Audubon (MA)

[EXHIBIT\(fcs74a17\)](#)

01:55:41 Stan Frasier, representing himself

01:55:58 Irv Wilke, Laurel Rod & Gun Club

[EXHIBIT\(fcs74a18\)](#)

01:56:27 Clayton Elliott, Montana Wilderness Association
01:56:42 Shelbi Dantic, Montana Conservation Voters

Informational Testimony:

01:57:01 Cathy Duncan, Legislative Fiscal Division (LFD)
01:58:17 Christine Hultin-Brus, Office of Budget and Program Planning
01:58:35 Chair Jones left the meeting. Sen. Keane assumed the chair.

Questions from Committee Members and Responses:

01:58:45 Sen. Phillips
01:59:26 Rep. Hagstrom
02:00:52 Sen. Phillips
02:00:53 Rep. Hagstrom
02:01:05 Sen. Hansen
02:01:45 Mr. Denowh, UPOM
02:02:19 Sen. Hansen
02:02:50 Mr. Denowh
02:02:58 Sen. Brenden
02:04:40 Mr. Denowh
02:04:54 Sen. Sesso
02:06:46 Mr. Hagener, FWP
02:08:41 Sen. Sesso
02:09:27 Mr. Hagener
02:10:22 Sen. Sesso
02:11:27 Rep. Hagstrom
02:11:49 Sen. Sesso
02:12:48 Rep. Hagstrom
02:15:03 Sen. Hamlett
02:15:45 Mr. Hagener
02:18:19 Sen. Hamlett
02:18:40 Mr. Hagener
02:19:46 Sen. Ripley
02:20:30 Rep. Hagstrom
02:21:42 Sen. Ripley
02:21:50 Rep. Hagstrom
02:22:05 Chair Keane
02:22:36 Mr. Hagener
02:24:04 Chair Keane
02:24:15 Mr. Hagener

Closing by Sponsor:

02:24:34 Rep. Hagstrom

HEARING ON HB 512

Opening Statement by Sponsor:

02:26:10 Rep. Dale Mortensen (R), HD 44, opened the hearing on HB 512, Establish an eastern Montana crime laboratory.

[EXHIBIT\(fcs74a19\)](#)

Proponents' Testimony:

02:28:43 Rep. Kelly McCarthy, HD 49

02:31:45 Bruce McIntyre, Billings Chamber of Commerce

02:32:23 Dan Schwarz, deputy county attorney, Yellowstone County

02:37:29 Bob Gilbert, Rosebud, Dawson, Phillips, Musselshell Counties and City of Glendive

02:38:31 Frank Garner, representing himself

02:39:11 Dr. Phil Kinsey, administrator, State Crime Lab

02:39:44 Shantil Siaperas, Montana Association of Counties (MACo)

02:40:03 Jim Smith, Montana Sheriffs and Peace Officers Association

Opponents' Testimony:

Informational Testimony:

02:40:32 Tracy Ellig, Montana University System

Questions from Committee Members and Responses:

02:41:08 Sen. Howard

02:41:39 Mike Milburn, Department of Justice (DOJ)

02:44:45 Sen. Howard

02:44:54 Mr. Milburn

Closing by Sponsor:

02:45:37 Rep. Mortensen

ADJOURNMENT

Adjournment: 11:47 p.m.

Prudence Gildroy, Secretary

pg

Additional Documents:

EXHIBIT([fcs74aad.pdf](#))

MINUTES

MONTANA SENATE 64th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: Chair Llew Jones, on April 14, 2015 at 8:00 AM, in Room 317 Capitol

ROLL CALL

Members Present:

Sen. Llew Jones, Chair (R)
Sen. Bob Keenan, Vice Chair (R)
Sen. Mark Blasdel (R)
Sen. John Brenden (R)
Sen. Mary Caferro (D) (arrived after roll call)
Sen. Bradley Hamlett (D)
Sen. Kris Hansen (R)
Sen. David Howard (R)
Sen. Jim Keane (D)
Sen. Frederick (Eric) Moore (R)
Sen. Mike Phillips (D)
Sen. Rick Ripley (R)
Sen. Matthew M. Rosendale Sr (R)
Sen. Jon C. Sesso (D)
Sen. Cary Smith (R)
Sen. Janna Taylor (R)
Sen. Roger Webb (R)
Sen. Jonathan Windy Boy (D) (arrived after roll call)
Sen. Cynthia Wolken (D)

Members Excused: None

Members Absent: None

Staff Present: Prudence Gildroy, Committee Secretary
Julie Johnson, Legislative Branch
Jon Moe, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 89, 4/10/2015; HB 356, 4/10/2015; HB 483, 4/10/2015; HB 389, 4/10/2015; HB 322, 4/10/2015; HB 560, 4/10/2015

Executive Action: HB 11 Be Concurred In As Amended; HB 115 Be Concurred In; HB 123 Be Concurred In; HB 487 Be Concurred in As Amended; HB 89 Be Concurred In; HB 322 Be Concurred In; HB 356 Be Concurred In; HB 389 Be Concurred In; HB 483 Be Concurred In; HB 506 Be Concurred In; HB 251 Motion Only

EXECUTIVE ACTION ON HB 11

00:02:17 **Motion:** Sen. Keenan moved that **HB 11 BE CONCURRED IN.**

Discussion:

00:02:46 Sen. Keenan

00:02:57 Cathy Duncan, Legislative Fiscal Division (LFD)

00:04:43 **Motion:** Sen. Keenan moved that **HB 11 BE AMENDED.**

EXHIBIT(fcs75a01)

Discussion:

00:04:59 Sen. Sesso

00:05:51 Ms. Duncan, LFD

00:06:30 **Vote:** Motion carried unanimously by voice vote. Sen. Caferro and Sen. Windy Boy voted by proxy.

00:06:42 **Motion/Vote:** Sen. Keenan moved that **HB 11 BE CONCURRED IN AS AMENDED.** Motion carried unanimously by voice vote. Sen. Caferro and Sen. Windy Boy voted by proxy. Sen. Keenan will carry the bill.

EXECUTIVE ACTION ON HB 115

00:07:18 **Motion/Vote:** Sen. Keenan moved that **HB 115 BE CONCURRED IN.** Motion carried 17-2 by voice vote with Sen. Howard and Sen. Webb voting no. Sen. Caferro and Sen. Windy Boy voted by proxy. Sen. Caferro will carry the bill.

EXECUTIVE ACTION ON HB 123

00:08:09 **Motion/Vote:** Sen. Keenan moved that **HB 123 BE CONCURRED IN.** Motion carried unanimously by voice vote. Sen. Caferro and Sen. Windy Boy voted by proxy. Sen. Facey will carry the bill.

EXECUTIVE ACTION ON HB 487

00:08:55 **Motion:** Sen. Keenan moved that **HB 487 BE CONCURRED IN.**

00:09:06 **Motion/Vote:** Sen. Hansen moved that **HB 487 BE AMENDED.** Motion carried unanimously by voice vote. Sen. Caferro and Sen. Windy Boy voted by proxy.

EXHIBIT(fcs75a02)

00:09:43 **Motion/Vote:** Sen. Keenan moved that **HB 487 BE CONCURRED IN AS AMENDED.** Motion carried unanimously by voice vote. Sen. Caferro and Sen. Windy Boy voted by proxy. Sen. Howard will carry the bill.

Sen. Caferro joined the meeting.

HEARING ON HB 89

Opening Statement by Sponsor:

00:12:23 Rep. Kimberly Dudik (D), HD 94, opened the hearing on HB 89, Generally revise human trafficking laws.

Proponents' Testimony:

00:13:50 Jon Bennion, Office of the Attorney General (AG)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:15:25 Sen. Hansen
00:15:41 Mr. Bennion, AG
00:16:15 Sen. Hansen
00:16:24 Mr. Bennion
00:16:50 Sen. Phillips
00:17:13 Sen. Sesso
00:17:38 Rep. Dudik

Closing by Sponsor:

00:18:05 Rep. Dudick

HEARING ON HB 356

Opening Statement by Sponsor:

00:19:02 Rep. Donald Jones (R), HD 46, opened the hearing on HB 356, Revise funding for career and vocational/technical education.

Proponents' Testimony:

00:20:18 Terry Bouck, Billings Public Schools
[EXHIBIT\(fcs75a03\)](#)

00:22:13 Sen. Taylor Brown, SD 28
[EXHIBIT\(fcs75a04\)](#)

00:24:02 Sen. Elsie Arntzen, SD 26
[EXHIBIT\(fcs75a05\)](#)

00:25:07 Steve York, Office of Public Instruction (OPI)
00:26:55 Glenn Oppel, Montana Chamber of Commerce
00:27:51 Jim Smith, Montana Rural Education Association (MREA)

00:28:05 Tim Bronk, superintendent, Laurel Public Schools

00:28:45 Tom Moore, assistant superintendent, Great Falls Public Schools

[EXHIBIT\(fcs75a06\)](#)

00:32:49 Joe Wilkins, Great Falls Public Schools

[EXHIBIT\(fcs75a07\)](#)

00:34:06 Kirk Miller, School Administrators of Montana (SAM)

00:34:27 Marco Ferro, MEA-MFT

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:34:56 Sen. Phillips

00:35:15 Sen. Jones

00:35:38 Sen. Keane

00:36:04 Sen. Brown

00:37:25 Sen. Keane

00:37:44 Sen. Sesso

00:38:05 Rep. Jones

00:38:32 Sen. Phillips

00:38:52 Mr. Ferro, MEA-MFT

00:39:16 Sen. Howard

00:39:40 Rep. Jones

00:40:25 Sen. Howard

00:40:27 Rep. Jones

Closing by Sponsor:

00:40:40 Rep. Jones

HEARING ON HB 483

Opening Statement by Sponsor:

00:43:49 Rep. Ed Lieser (D), HD 5, opened the hearing on HB 483, Raising pension benefit in VFCA.

[EXHIBIT\(fcs75a08\)](#)

Proponents' Testimony:

00:49:42 John Semple, Montana Fire Alliance

00:50:16 Shantil Siaperas, Montana Association of Counties (MACo)

[EXHIBIT\(fcs75a09\)](#)

Opponents' Testimony: None

Informational Testimony:

00:52:41 Melanie Symons, Montana Public Employees Retirement Administration
(MPERA)

Questions from Committee Members and Responses:

00:53:04 Sen. Keane
00:53:27 Rep. Lieser
00:53:45 Ms. Symons, MPERA

Closing by Sponsor:

00:54:17 Rep. Lieser

HEARING ON HB 389

Opening Statement by Sponsor:

00:55:37 Rep. Jeff Essmann (R), HD 54, opened the hearing on HB 389, Require
department of revenue review of tax exempt properties.

Proponents' Testimony:

00:57:37 Shantil Siaperas, Montana Association of Counties (MACo)

Opponents' Testimony: None

Informational Testimony:

00:58:18 Liz Moore, Montana Nonprofit Association (MNA)
00:58:39 Cynthia Monteau Moore, Department of Revenue (DOR)

Questions from Committee Members and Responses:

00:59:17 Sen. Brenden
00:59:29 Sen. Essmann
01:00:05 Sen. Wolken
01:00:23 Sen. Essmann
01:01:14 Sen. Sesso
01:02:20 Sen. Essmann
01:03:41 Sen. Brenden
01:03:59 Sen. Essmann
01:05:01 Sen. Brenden
01:05:09 Sen. Essmann

Closing by Sponsor:

01:05:28 Sen. Essmann

HEARING ON HB 322

Opening Statement by Sponsor:

01:06:19 Rep. Donald Jones (R), HD 46, opened the hearing on HB 322, Create education savings accounts for children with disabilities.

Proponents' Testimony:

01:07:46 Brent Mead, Montana Policy Institute (MPI)

Opponents' Testimony:

01:09:50 Dennis Parman, deputy superintendent, Office of Public Instruction (OPI)

01:17:28 Kirk Miller, School Administrators of Montana (SAM)

01:22:16 Marco Ferro, MEA-MFT

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

01:23:32 Rep. Jones

HEARING ON HB 506

Opening Statement by Sponsor:

01:24:41 Rep. David (Doc) Moore (R), HD 92, opened the hearing on HB 506, Allowing microdistilleries to deliver products directly to agency liquor stores.

01:27:28 Sen. Wolken

01:27:55 Rep. Moore

Proponents' Testimony:

01:28:17 Jennifer Hensley, Montana Distillers Guild (MDG)

Opponents' Testimony: None

Informational Testimony:

01:30:54 Steve Swanson, Department of Revenue (DOR)

Questions from Committee Members and Responses:

01:31:18 Sen. Caferro

01:31:33 Rep. Moore

01:31:38 Sen. Caferro

01:32:26 Rep. Moore
 01:32:57 Sen. Caferro
 01:33:07 Ms. Hensley, MDG
 01:35:35 Sen. Caferro
 01:36:11 Ms. Hensley
 01:37:53 Sen. Taylor
 01:38:09 Ms. Hensley
 01:39:21 Sen. Hamlett
 01:39:48 Rep. Moore
 01:39:57 Sen. Webb
 01:40:08 Ms. Hensley
 01:40:56 Sen. Webb
 01:41:03 Ms. Hensley
 01:42:01 Sen. Webb
 01:42:10 Sen. Wolken
 01:42:17 Ms. Hensley
 01:42:57 Sen. Keane
 01:43:25 Ms. Hensley
 01:44:20 Sen. Keane
 01:44:44 Ms. Hensley
 01:45:15 Sen. Hamlett
 01:45:32 Ms. Hensley
 01:45:59 Sen. Hamlett
 01:46:11 Ms. Hensley
 01:47:10 Sen. Hamlett

Closing by Sponsor:

01:47:35 Rep. Moore
 01:48:41 Chair Jones
 01:49:12 Recess
 02:06:42 Reconvened

Sen. Windy Boy joined the meeting.

EXECUTIVE ACTION ON HB 89

02:07:24 **Motion:** Sen. Keenan moved that **HB 89 BE CONCURRED IN.**

Discussion:

02:07:54 Sen. Ripley
 02:07:57 Chair Jones

02:08:20 **Vote:** Motion carried 13-6 by voice vote with Sen. Blasdel, Sen. Howard, Sen. Keenan, Sen. Ripley, Sen. Rosendale and Sen. C. Smith voting no. Sen. Wolken will carry the bill.

EXECUTIVE ACTION ON HB 322

02:09:24 **Motion:** Sen. Keenan moved that **HB 322 BE CONCURRED IN.**

Discussion:

02:09:40 Sen. Keane

02:09:51 **Vote:** Motion carried 14-5 by roll call vote with Sen. Caferro, Sen. Keane, Sen. Phillips, Sen. Sesso and Sen. Wolken voting no. Sen. Hansen will carry the bill.

EXECUTIVE ACTION ON HB 356

02:10:54 **Motion:** Sen. Keenan moved that **HB 356 BE CONCURRED IN.**

Discussion:

02:11:15 Sen. Keane

02:11:39 Sen. Hamlett

02:12:09 Sen. Moore

02:12:34 Sen. Caferro

02:12:53 Sen. Hamlett

02:13:13 **Vote:** Motion carried unanimously by voice vote. Sen. T. Brown will carry the bill.

EXECUTIVE ACTION ON HB 389

02:13:41 **Motion:** Sen. Keenan moved that **HB 389 BE CONCURRED IN.**

Discussion:

02:13:54 Sen. Keane

02:14:26 **Vote:** Motion carried 15-4 by roll call vote with Sen. Howard, Sen. Keane, Sen. Phillips and Sen. Sesso voting no. Sen. Tutvedt will carry the bill.

EXECUTIVE ACTION ON HB 483

02:16:05 **Motion:** Sen. Keenan moved that **HB 483 BE CONCURRED IN.**

Discussion:

02:16:18 Sen. Keane

02:16:48 Sen. Brenden

02:17:51 Chair Jones

02:17:54 **Vote:** Motion carried 17-2 by voice vote with Sen. Keenan and Sen. Rosendale voting no. Sen. Brenden will carry the bill.

EXECUTIVE ACTION ON HB 506

02:18:15 **Motion:** Sen. Keenan moved that **HB 506 BE CONCURRED IN.**

Discussion:

02:18:28 Sen. Keane

02:18:33 Sen. Windy Boy

02:18:49 **Vote:** Motion carried 18-1 by voice vote with Sen. C. Smith voting no. Sen. Blasdel will carry the bill.

EXECUTIVE ACTION ON HB 251

02:19:12 **Motion:** Sen. Brenden moved that **HB 251 BE REMOVED FROM TABLE.**

Discussion:

2:19:59 Sen. Keane

02:20:30 Sen. Hansen

02:21:09 Sen. Ripley

02:21:27 **Substitute Motion/Vote:** Sen. Ripley made a substitute motion **TO ADJOURN.** Substitute Motion carried 13-6 by roll call vote with Sen. Blasdel, Sen. Hamlett, Sen. Hansen, Sen. F. Moore, Sen. Taylor and Sen. Windy Boy voting no.

02:21:47 Chair Jones

ADJOURNMENT

Adjournment: 10:33 a.m.

Prudence Gildroy, Secretary

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Additional Documents:

EXHIBIT([fcs75aad.pdf](#))